

PART ONE

Background

INTRODUCTION

0.1 Background, focus and scope

The genesis of this thesis was an 11,000 word statement (Cooke 1991a) that I prepared for the Coroners Court of the Northern Territory during its 'inquest into the death of Ganamu Garrawurra¹ at Elcho Island on 28 April 1990' (ref. no. 9009338). Ganamu was a traditionally-oriented *Yolngu* (Northeast Arnhem Land Aboriginal) man from Galiwin'ku² who was mentally ill and who had speared and wounded two men. He was shot by police on a remote Elcho Island beach as he tried to evade their ambush, running at one officer while brandishing a knife.

The *Elcho Coronial*, as this politically charged inquest came to be known, heard evidence from more than thirty witnesses during thirty days of sittings over a twelve month period. I was engaged by the Crown to assist the inquiry as an interpreter for many of the 16 Yolngu witnesses, all of whom were mother-tongue speakers of traditional Aboriginal languages. My written statement presented a sociolinguistic analysis of the testimonies of several Yolngu witnesses who had given evidence without interpreting assistance. The statement was submitted to the coroner, Mr A. McGregor SM, as:

an illustrative compilation of exchanges between various counsel and witnesses ... which have been marred by misinterpretation, where this has arisen from any of a number of factors such as: linguistic interference between witnesses' first and second languages; non-recognition of nuance or idiom; the use of complex grammar; and other sociolinguistic or cultural factors.

I had prepared this statement following advice from Counsel Assisting the Coroner that he proposed calling me as an expert witness to testify concerning the frequent miscommunication and culturally based misunderstandings that had affected the inquest. When I was called to the stand he sought to tender my statement (together with another shorter statement that I had also prepared, containing mainly anthropological information about aspects of Yolngu society). The statement elicited vociferous and lengthy objection from the Queen's Counsel³ representing the Commissioner of Police and from counsel representing the police officer who had shot Ganamu. Their objections included (transcript, p1556) that it was the function of the coroner '*to interpret what the witness has said and what they meant*' and that: '*He [i.e. the present writer] doesn't hold a doctorate in linguistics.*' On the other hand, the Queen's Counsel representing the family of the deceased man argued for the document's inclusion.

¹ In earlier publications concerning the *Elcho Coronial* a Yolngu taboo against uttering the name of a recently deceased person was operative in preventing the use of this man's name.

² Galiwin'ku is the main village on Elcho Island (see Map 1) and the largest community of Northeast Arnhem Land (part of the Arnhem Land Reserve), the region comprising the many clan estates of its 5000 Yolngu inhabitants.

³ As a profession, barristers are divided into two groups: 'Seniors' and 'Juniors'. Senior barristers may be appointed 'Queen's Counsel', abbreviated in written form as QC (in some states senior barristers are known as Senior Counsel or SC).

In refusing to accept the (longer) document as evidence, the coroner made this quite prophetic comment (transcript, p1563)⁴:

Cor: I appreciate the effort that Mr Cooke has gone to and I hope that - I dare say that this inquest is going to be the basis of a few learned papers and I hope that this may well be the start of something, but I don't propose to receive into evidence the ... other document

The '*document*' was revised for publication (Cooke 1995a) and the inquest did indeed provide the basis of '*a few learned papers*' (Cooke 1995b, 1995c, 1996a). It was also the first stage of the broader investigation into Anglo/Yolngu communication in criminal justice contexts that is dealt with in this thesis. Here it will be shown that the *Elcho Coronial*, together with other more recent cases, shows that significant changes are necessary in the way police and courts engage Aboriginal people of a non-English speaking background in discourse before 'the system' can hope to give them a full and equal voice in front of the law.

The focus for the study derives from the posing of three questions:

1. What is the nature and what are the features of Anglo⁵/Yolngu verbal communication, discernible by (socio)linguistic analysis, within criminal justice contexts?
2. How does the quality of this communication in these contexts affect the capacity of courts to receive and hear Yolngu evidence?
3. How can (socio)linguistic expertise assist in the development of strategies to improve the efficacy of Anglo/Yolngu communication in the criminal justice system?

The first of these questions is primary in the sense that it must be comprehensively addressed to provide the research basis for informing and delineating its subsequent application to the sociolinguistic issues raised in the other two.

The investigation of Anglo/Yolngu communication in the criminal justice system is necessarily wide ranging and cross-disciplinary in nature. It requires consideration of the jurisprudential, ethnographic, sociolinguistic, historical and political dimensions of this discourse. For example, the rules of evidence must be incorporated into any consideration of the *pragmatics* (see section 4.2.5) of evidentiary courtroom discourse. Also, the topic of Yolngu contact with the 'outside' world prior to the British invasion/settlement is relevant through its effect on the lexicon of Yolngu languages, reflecting how Yolngu have accommodated various Western concepts that may arise in questions posed of Yolngu witnesses. Furthermore, the scope of this investigation extends beyond the analysis of specific examples of Anglo/Yolngu discourse and encompasses analysis of policies and initiatives of governments, and of contemporary judicial decisions, that impact upon the

⁴ See previous section for the specification of transcription conventions used throughout this study.

⁵ Here, the use of *Anglo* is in regard to the language background of officials (police, lawyers, magistrates, judges) who are native-speakers of Standard Australian English (SAE), rather than to racial features or ethnic ancestry.

quality of communication between Anglo officials and non-English speaking background (NESB) Aboriginal people within criminal justice contexts.

0.2 Corpus of data

The corpus of data for this study consists of material in various forms that has mainly been gathered in the course of my work as an interpreter, translator or linguistic consultant in court cases involving Yolngu as witnesses or defendants. Apart from the *Elcho Coronial* these cases were criminal trials. (The *Elcho Coronial* was an inquiry⁶ and not a trial.) Data pertaining to police investigations and criminal proceedings includes: transcripts of court proceedings; witness statements and other documents tendered as evidence; audio tapes of police interviews and court proceedings; and a video-taped police interview with a suspect. Criminal trials provide opportunities to consider police records of interview as research data because of the fact that criminal cases generally involve the submission of such material by prosecutors as evidence. The need for police to advise suspects of their rights prior to eliciting admissions, and the difficulty with which communication usually proceeds, ensure that records of interview are commonly matters of contention during the trial process and make them worthy subjects of linguistic analysis in themselves.

One factor in the decision to limit myself to data deriving from cases in which I have been involved as an interpreter (and sometimes also a witness) is that attendance at proceedings, and the enhancement of understanding about a case that the role of interpreter often affords, enables a more informed analysis. There is also a methodological basis for this decision: any effects that my presence had on proceedings can be attributed to my engagement (through subpoena or by request) as interpreter or expert witness—my interest as an observer was subservient and secondary to my role as a direct participant. In this way one of the fundamental problems inherent in data collection for the sociolinguist, namely the Observer's Paradox, can be considerably mitigated (Labov 1972).

My understanding of proceedings that I attended was further enhanced in some cases by what I learnt as interpreter in private interviews, such as when lawyers were taking instructions from their clients or by private or confidential communication with (various) participants. In some cases the relevant information subsequently became public (e.g. during the course of witness testimony) and can be used here. At the same time, although I make occasional selective reference to private communications in support of my analysis, I necessarily forego inclusions that entail ethical breaches.

⁶ The categorisation of the *Elcho Coronial* within the criminal justice domain follows from the fact of the coroner's responsibility to determine whether an indictable offence had been committed, and from his power to commit a person to their trial for any such offence.

It is of course necessary to exercise extreme care in referring to information that is sensitive. Even where references are made to information that is on the public record, as is the overwhelming proportion of material that comprises the corpus of data, I have avoided identifying individuals in cases where doing so would cause obvious embarrassment. In particular there is the need to avoid naming women in any context of a sexual nature (e.g. as victims of sexual assault). In fact, in cases other than the *Elcho Coronial*—which attracted both extensive media coverage and widespread interest and comment in the Yolngu community—I have avoided naming defendants and witnesses at all, and the cases themselves are referred to using an initial of the defendant. Each of these cases will be described, to the extent required, in the sections of this thesis that particularly address the communication issues that they raise.

0.3 Organisation

The thesis is organised into six parts. Part One ('Background') provides an introduction to the study including an introductory review of literature on the thesis topic (Chapter 1) and an ethnographic and sociolinguistic orientation to the Yolngu of Northeast Arnhem Land (Chapter 2). Part Two ('Theoretical Considerations') begins with a theoretical orientation to the subject of intercultural communication with a specific focus upon the issue and limits of translatability, particularly in consideration of disparate linguistic and cultural systems (Chapter 3). This is followed by a discussion of sociolinguistic approaches to the study of intercultural communication and the development of an analytical framework appropriate to the requirements of this thesis (Chapter 4). This framework draws heavily upon interactional sociolinguistics, the ethnography of communication, and pragmatics, and requires that the analysis of interaction be firmly contextualised by the circumstances of the interlocutors, by the legal issues pertaining to the particular case, and by sociopolitical factors which can be seen to affect the conduct or process of the discourse under consideration.

The body of the analysis is separated into three heavily interlinked parts: 'The Police Record of Interview' (Part Three), 'Dynamics of Evidentiary Discourse' (Part Four), and 'Focus on Miscommunication' (Part Five).

Part Three (Chapters 5 to 7) is focussed upon Anglo/Yolngu communication in the *Police Record of Interview* (or *PRI*), but it also serves to introduce key issues pertaining to Anglo/Yolngu communication in any legal context. These include: the question of what level of English proficiency Yolngu require to participate effectively in a formal interview without interpreting assistance; the susceptibility of Yolngu to particular types of verbal manipulation by native English speakers; and, problems in providing appropriate interpreting assistance in Aboriginal languages.

The introduction to Part Three provides a background to the influential *Anunga* guidelines: a series of rules resulting from a Northern Territory (NT) Supreme Court decision, *R v Anunga and Others* (1975) 11 ALR 412, that have been incorporated into NT Police General Orders to regulate police interrogation of Aboriginal suspects. They deal with such matters as the provision of interpreting assistance, the requirement that Aboriginal suspects demonstrate their understanding of the right to silence, and the requirement that police offer the suspect the opportunity to select a companion of their choosing (a 'prisoner's friend') who can give advice to the suspect during the PRI. While the *Anunga* guidelines have not been wholly adopted in other states, they are nevertheless influential as a standard for the interrogation of Aboriginal suspects.

In Chapter 5 the electronically recorded PRI of a Yolngu woman charged with murder, and conducted without interpreting assistance, is analysed as a case study in revealing the identity and operation of discursive manoeuvres that allow the native English speaking interviewer to guide and to help construct the NESB interviewee's contributions to the discourse, thereby facilitating the desired outcome (in this case, a confession).

The focus of Chapter 6 remains upon the PRI but this time through an analysis of evidence and arguments presented at a NT Supreme Court trial concerning the admissibility of a PRI involving a Yolngu suspect who was interviewed with inadequate interpreting assistance provided by his brother, who was in attendance at the PRI as the suspect's 'prisoner's friend'. This case highlights problems in the implementation of the *Anunga* guidelines in the NT where a shortage of skilled interpreters may be proffered by police and accepted by courts as justification for utilising a suspect's chosen prisoner's friend as a quasi interpreter.

Chapters 5 and 6 form a foundation for the wider assessment in Chapter 7 of the current status and efficacy of the *Anunga* guidelines relating to interpreters, prisoner's friend and administration of the caution. Within the NT these three guidelines are seen as problematic by both judiciary and government and yet they are central in determining the quality of communication between police and NESB Aboriginal people in PRIs. A judicial perspective (Mildren 1997) on problems in implementing these guidelines is evaluated first, followed by discussion of recent government policies and initiatives in the NT aimed at redressing deficiencies in Anglo/NESB-Aboriginal communication in the criminal justice system.

Part Four (Chapters 8 and 9) examines the dynamics of power and control in Anglo/Yolngu evidentiary discourse⁷, exploring factors such as the relationship between the structure and function of counsel questions, and exercise of control over Yolngu testimony by controlling access to the interpreter. While the vehicle for this exploration is Anglo/Yolngu discourse

⁷ Evidentiary discourse is defined for the purposes of this study as courtroom verbal interaction between counsel, witness, tribunal (magistrate or judge) and the interpreter (where applicable) during witness testimony.

located in the courtroom, findings are also relevant to PRIs of NESB Aboriginal suspects where the Anglo interviewer may tolerate miscommunication for strategic purposes or deploy an ineffectual quasi interpreter with the result that control of communication can be largely retained.

Chapter 8 provides a contextual foundation for the study of language and control in Anglo/Yolngu evidentiary discourse. This begins with discussion of the use of interpreters in courts and includes such matters as: rights to interpreting assistance, the role of courtroom interpreters, and availability and competence of Aboriginal languages interpreters. This is followed by examination of how the adversarial system and rules of evidence affect the way courtroom interrogation proceeds and underlie the intense attention given by barristers to the linguistic form of their questions with consequent effects on witness testimony. A typology of courtroom questions is presented, allowing the examination of transcripts for evidence of the relationship between question type and the status of a witness with respect to the interrogating counsel. Finally, this chapter provides a description of the background and contextual issues relating to the *Elcho Coronial* which constitutes a case study for the exploration in Chapter 9 of the dynamics of power and control in relation to Yolngu evidence.

Chapter 9 begins by illustrating the power that can be exerted by counsel in cross-examination through restricting NESB Yolngu witnesses to giving their evidence in English, and then proceeds to show how the dynamics of power and control are radically shifted by the interpolation of an interpreter. Objections and contention over interpreting assistance during the course of the *Elcho Coronial* serve to reveal that control over language—and through this, control over the extent to which a Yolngu witness is permitted to understand a question and express an answer—is recognised by counsel as crucial in controlling the course and force of Yolngu testimony. Chapter 9 concludes with an example of the linguistic empowerment that is afforded a Yolngu defendant who is able to give testimony in narrative form together with interpreting assistance. This example is taken from the trial of the Yolngu woman whose PRI is the subject of investigation in Chapter 5. The opportunity she was provided at trial to recount the events that led to her arrest contrasts sharply with the restrictive Question/Answer (Q/A) interview structure and the absence of interpreting assistance that pertained during the PRI.

Parts Three and Four, which are pre-eminently concerned with the dynamics and process of Anglo/Yolngu discourse in the police station and in the courtroom, also function to contextualise Part Five which provides an examination of Anglo/Yolngu miscommunication phenomena themselves, including their linguistic and cultural foundations, the mechanics of their construction, and the challenge of averting or resolving them. Miscommunication phenomena are considered both in respect of monolingual and bilingual communicative contexts, with the *Elcho Coronial* providing data for both. In Chapter 10 a range of

miscommunication issues will be investigated in the testimony of several Yolngu witnesses who gave their evidence in English, while in Chapter 11 the theme of miscommunication is followed through into the bilingual communicative context where barriers to successful intercultural communication are seen to persist despite interpreting assistance.

Part Six then concludes the thesis with a discussion of the findings of preceding chapters in answering the three questions that have been given in section 0.1 as the focus for this study. Consideration will also be given to implications of this study in respect of other judicial contexts and other (non-Yolngu) NESB and Indigenous groups, although with the caution that is required by any investigator seeking to extrapolate their findings from a context with which they are most familiar into another 'similar' one with which they are not. In respect of Indigenous Australia, with its many 'nations', histories and languages, heterogeneity must be recognised along with any unifying features and forces.

CHAPTER 1

INTRODUCTORY LITERATURE REVIEW

This chapter begins (section 1.1) by identifying established understandings about Anglo/Yolngu communication in legal contexts—with an emphasis on the criminal justice area but also noting references to courtroom communication in other areas. The subsequent section (1.2) introduces understandings about Anglo/Yolngu communication that appear relevant in consideration of legal contexts but that have emerged from studies of Anglo/Yolngu interactions in other contexts. The final section (1.3) considers research findings about Anglo/Aboriginal communication in legal contexts (again with emphasis on the criminal justice domain) that provide guidance to the researcher here, but that derive from studies of interactions not involving Yolngu. (The validity of making extrapolations from such material will be discussed first.)

1.1 Anglo/Yolngu communication in legal contexts

An early indication of the communication difficulties faced by Yolngu within the criminal justice system is contained in Elkin (1947:182-204, quoted in Rowley 1972:292-5) which documents the trial, death sentence, and subsequent appeal of a Yolngu man, Tuckiar, who had allegedly speared a constable in 1933. Elkin had observed that Tuckiar was convicted in part because of conflicting statements he was alleged to have made to two other Yolngu men who were then called to give evidence reporting what he had said. This was heard by the jury through a court interpreter who was translating their (hearsay) evidence into an Aboriginal pidgin. Following his conviction and death sentence, public protests led to an appeal which quashed the conviction against Tuckiar. The High Court decision included comments severely critical of the judge and defence counsel, and consequently of the trial itself, and found that Tuckiar had been denied the substance of a fair trial.

The 1970 case of *Milirrpum v Nabalco Pty Ltd* (1971) 17 FLR 141 was an attempt by Yolngu from Yirrkala to have their traditional title over Yolngu land established under Australian law and so to have a mining lease granted by the Commonwealth to the Nabalco company invalidated⁸. McRae, Nettheim and Macroft (1997:205-8) report that Blackburn J, who heard the case, found not only that the purported doctrine of native title was not known to common law but that even if it was, the plaintiffs were unable to prove the elements required to establish native title. According to various commentators this was a notable case of judgement being clouded by intercultural misunderstanding (ibid:255-6):

Lawyers, anthropologists and historians strongly criticise Blackburn J's decision for ... misunderstanding the Yirrkala peoples' system of land laws ... and generally taking a Eurocentric approach ...

⁸ While this was a civil case, it nevertheless raised important issues concerning the quality of Anglo/Yolngu miscommunication relevant to criminal contexts.

Williams (1986:xii, quoted in McRae, Nettheim & Beacroft 1991:125) is more specific, stating that *Milirrumpum* 'underscored the problem of communicating to non-Aborigines in English an Aboriginal system of land tenure' where this was exacerbated by lawyers' inevitably Eurocentric perspective in the course of applying Eurocentric laws.

A Yolngu perspective on the attempts by Yolngu elders to present their case to the court was expressed 18 years after the event, following a Yolngu school excursion to the mining town of Nhulunbuy by children, Yolngu teachers and elders (Yolngu Community Education Centre 1989, quoted in Walton & Christie 1994:78-79). One of these elders was Roy Marika who had helped prepare the famous 'bark petition' which was presented to the House of Representatives in 1963, claiming Yolngu rights to the area excised for mining.

Roy showed us the very spot where all the tribal elders of Yirrkala once came together to do a Galtha dance ... getting ready to go to the [NT] Supreme Court against Nabalco over the proposed mining.

Roy stood at the end of the molk [ceremonial ground] and then told us the story of how Mungurrawuy our grandfather was playing the didgeridoo and Mathaman was singing and dancing to the song of Wuyal [a creation being] ...

It was as if our elders, who had long since gone, was actually there with us, because in Roy's mind they appeared there as if only yesterday. He was singing and crying, and at the same time thinking about all the leaders that once stood at the very same spot; but it was another era.

Now we can see that what they were trying to do was win back the land for future generations. The sad thing was that what they presented to the magistrate [i.e. Justice Blackburn] was something that only Yolngu can understand about our land. Because the magistrate didn't understand the meaning and importance of our land.

Williams' (1987) study of how Yolngu in the Yirrkala community manage dispute resolution incorporates comment upon Yolngu responses to Australian law. She found that Yolngu understandings about Australian law derived from concepts in their own law. A consequence was that unrecognised divergences or apparent mismatches could result in misinterpretation or confusion (pp119-25):

Yolngu concepts of a leader's authority in enforcing norms of conduct and settling disputes had shaped their perceptions of Australian legal procedures. The position of police officers was ambiguous because police were seen as having authority to intervene in disputes, yet they did not remain in charge of the procedures of dispute settlement. ...

Judges, magistrates and courts were also linked in Yolngu understanding. The perception of judges was based on the concept of the Yolngu leader convening and managing a clan moot⁹, and the perception of the courts was based on the procedures of the moot. Judges 'asked people questions' and listened while people 'questioned each other'. ...

In proceedings involving barristers, the barristers were apparently fulfilling the obligations of elder brothers or other senior clansmen to speak on points of relevant law and to 'speak for' their junior clansmen who were involved.

Since the procedure of Australian courts diverge at many points from that of a clan moot, the Yolngu conceptual analogues did not provide all the perceptual cues for responses appropriate in a court setting. Thus a barrister appearing on behalf of a

⁹ In the Yolngu context, a *clan moot* refers to a meeting convened with the object of resolving a dispute. A convener (senior to the disputants) manages the meeting which involves: gathering and checking evidence; obtaining admissions of all culpable acts; confirming findings and action already taken; and, applying sanctions (Williams 1987:50-1).

Yolngu client reminded him several times that he, the defendant, would not be able to question the plaintiff when he faced her in court. ...

Rules governing evidence may be likely causes of ... dissonance. Yolngu predicate the mode of reaching an outcome on the nature of the outcome anticipated, which can be stated as consensus (*wanggany dharuk*, one word). The Australian legal mode requires independently given individual accounts (evidence), with the assumption that an adjudicator or jury can detect significant differences ... The Yolngu mode requires meeting together until an agreed upon account can be constructed which includes a satisfactory explanation of the motive.

Acknowledging the 'chronic miscommunication that occurs between Balanda [Yolngu term for Europeans] and Yolngu' in criminal justice contexts, the Aboriginal Resource and Development Services (ARDS¹⁰) have sought to identify Anglo/Yolngu conceptual parallels in the domains of law and commerce that assist them in conducting community education and cross-cultural awareness training programs. The following Yolngu terms have been selected from lists in ARDS (1994b:99; 1995b:1) and Trudgen (1994:31-41) as examples, illustrating the nature and extent of these parallels, or as terms that will arise in subsequent chapters (they are given in Yolngu Matha orthography, described in section 2.4.2 below). Trudgen's translations of some terms differ significantly from translations given in a Yolngu Matha dictionary (Lowe n.d.) where 'this may be due to a number of factors including culture, experience, language knowledge, focus, cultural barriers and many more' (Trudgen 1994:31). Where there is difference Lowe's definitions are given in parentheses.

<i>bäka-bakmaram</i>	(pay back, take revenge) repay something that is owed
<i>balanydja</i>	payment for services rendered
<i>bäyarra</i>	(pay, pay back, take vengeance) repay something you owe to someone, to pay a debt to society for an act of lawlessness, to reconcile the law ...
<i>buku-djugu'</i>	face to face contract; verbal contract
<i>dhäruk-waṭaṇu</i>	the owner of a contract who has the authority to direct
<i>djugu'</i>	contract ...
<i>maḍayin</i>	... system of law ... together with the legal symbols and song cycles which encode the law
<i>raṅga</i>	(sacred totemic object) sacred objects of law which symbolise the 'constitution' of a <i>bäpurru</i> (clan) and the 'constitutional law' ... that gives each <i>bäpurru</i> the power and authority to ... seek restitution ...
<i>rom</i>	(law, custom habit, way of life) general term for law
<i>wäwun</i>	an oath

¹⁰ ARDS describes itself as: 'an Aboriginal organisation incorporated under the NT Associations Act ... the community development arm of the Northern Regional Council of the Uniting Aboriginal and Islander Christian Congress Uniting Church in Australia' (ARDS 1994a).

<i>yirralka</i>	the estates of the bāpurru ... the place where the clan rules ... the estate of the ancestors ...
<i>nārra</i>	(special taboo ceremony, shade place containing ceremonial objects) a chamber of law, like a parliament or court house, a place where law is made, taught and where disputes are ruled on

The difficulty that Yolngu women face in court is a matter for particular concern. Any need to testify concerning sexual matters or matters of intimacy (for example, in cases of sexual violence or apprehended violence) is made difficult by cultural taboos and restrictions on what they may say in front of specified relatives, particularly males. Justice Sally Thomas (NT Supreme Court) who visited the Yolngu communities of Yirrkala and Mililingimbi in 1995 and met with groups of women, reported women expressing difficulty in giving evidence because they were “shamed” by certain lines of questioning and sometimes ... afraid of causing offence to certain relatives who may be in the court’. They told her that ‘it is difficult for them [women] to give evidence in court because they are “shy” in the unfamiliar surroundings’ and find difficulty with the ‘strange language of the courtroom’. Thomas J also met with Yolngu leaders who ‘felt that the greater use of Aboriginal language interpreters and of Aboriginal persons versed in Yolngu law to advise the court would go a long way towards ensuring that the Australian system of law worked effectively for Yolngu people’ (Thomas, Williams & Coulehan 1996:4-6).

Finally, a number of articles have already emerged during the course of this study and they concern aspects of Anglo/Yolngu communication that are now addressed more substantially here.

Cooke (1995a) ‘examines a number of legal and linguistic issues involving the use of interpreters in the [*Elcho Coronial*] inquiry’ and ‘evidence given by witnesses without the aid of an interpreter’, focussing on ‘a number of sociolinguistic concerns’ (p55). Cooke (1995b) examines the reactions of counsel at the *Elcho Coronial* to the use of an interpreter, and attempts by counsel who were cross-examining unfriendly witnesses through an interpreter to minimise, negate or otherwise prevent his participation. Cooke (1995c) challenges any supposition that an interpreter or translator can adequately transpose Anglo-Australian legal concepts into Yolngu terms without recourse to explication and explanation of these concepts and the freedom to resequence the ideas of the source text in order to provide a meaningful translation. Cooke (1996a) approaches the issue from the other way around by analysing cultural barriers that served to prevent lawyers at the *Elcho Coronial* from understanding the evidence of one Yolngu witness who was attempting, with assistance from the interpreter, to explain Yolngu ceremonial practices.

Cooke (1996b) is based on *R v M*¹¹ Western Australia Supreme Court before Owen J, Feb. 1995, unreported) where the Yolngu defendant had been interrogated by police in the Q/A discourse structure and without interpreting assistance, but was able to give narrative evidence with interpreting assistance at her trial. Cooke argues that, for Yolngu, the discourse structure (narrative versus Q/A) can be a critical determinant of the quality of evidence that is elicited.

In the next section, research dealing with Anglo/Yolngu communication problems outside of legal contexts will be reviewed, followed by a discussion of communication issues in police and courtroom contexts involving Aboriginal people *other* than Yolngu (section 1.3).

1.2 Anglo/Yolngu communication in other contexts

Stephen Harris (1984) has shown the extent to which Anglo/Yolngu miscommunication is attributable to differing, but determinable, culture-specific pragmatic conventions. He observed that the difficulties Yolngu experience when speaking in English with Anglo-Australians extend far beyond those attributable to an incomplete mastery of English at the grammatical and lexical level. Rather, many difficulties were found to exist because Yolngu carry over their Aboriginal speech behaviours into their communication with 'Balanda'.

Harris was able to construct a system of Yolngu rules of interpersonal communication where a number of those 'rules' are relevant to Anglo/Yolngu courtroom communication. He found that the high frequency of miscommunication and misunderstanding between Anglo workers (such as teachers) and Yolngu was attributable to the foreignness and sometimes unacceptability of many Anglo verbal genres and speech acts. Conversely, he found that Yolngu frequently carry over their own distinctive speech behaviours in discourse with Anglo interlocutors. For example he found that 'yolngu tend to say what they think the balanda want to hear' and that 'yolngu find it very difficult to say "No" to a balanda' (ibid:128).

With regard to answering questions he comments that 'a yolngu listener feels much less obligation to provide an answer to a question or statement than a balanda does, and feels much less embarrassment about blatantly avoiding either a direct response or any response at all' (ibid:140). The reticence which Harris observed in response to Anglo ways of questioning was accounted for by a number of factors including that: 'yolngu have less interest in "information for information's sake," i.e. information that bears no personal relevance to the person being asked'; 'yolngu will not often verbally speculate about another's motives for doing things'; and, that 'yolngu resist pressure to be specific' and 'often prefer to be given time to think before they answer' so that 'to be impatient and demand immediate answers may be interpreted as rudeness' (ibid:157).

¹¹ The name of the defendant is withheld at her request.

If one can characterise a cross-examination as a form of direct verbal confrontation then it is relevant to note Harris's finding that 'yolngu are careful to avoid direct verbal confrontation as much as possible ... they avoid "talking strong" or "talking hard"' (ibid:141). This is because, '(i)n yolngu culture, "talking hard" is associated with anger and personal animosity, and indicates that the communication has deteriorated beyond a state of diplomacy' (ibid:142). In the context of Anglo/Aboriginal discourse he warns that 'a balanda who lives in Aboriginal communities should realise that his relative willingness to enter readily into direct verbal confrontation is one of the most offensive of all balanda behaviours in the eyes of Aboriginal people' (ibid:144).

Also relevant to the courtroom context is the issue of hypothetical questioning. Harris's 'rules' concerning '(q)uestions from balanda to Yolngu seeking analysis and the answering of hypothetical questions' include that (ibid:157):

A question that can be analysed, or a hypothetical question that can be answered satisfactorily from the well-known yolngu ideal structure of society, such as the kinship system or pay-back sorcery, can be readily answered by the yolngu;

but that:

Hypothetical questions which cannot be related to a real-life situation or a known cultural ideal, or questions that require the listener to speculate about the motives behind another person's actions will either not be answered, or the questioned person will try to pull the question back into a real-life situation or into the cultural ideal in order to answer it. By doing so, he will not be answering it in the form in which it was asked.

Elwell's (1979) study of the English spoken by Yolngu at Milingimbi included comments upon the sociolinguistics of their English (pp92-3) that concur with Harris's:

There are several aspects of English sociolinguistics that the Yolngu find hard to understand. The Yolngu always avoid direct "strong talk" (verbal confrontation) and impersonal debate forms, both characteristic of English, unless the speaker wishes to express acute personal animosity and anger. Verbal measures taken by Yolngu to avoid potential conflict situations include: lengthy preparatory conversations before asking a favour; procrastination as a way of saying "no"; circumlocution in a debate to avoid open conflict (for example, by apparently agreeing with the previous speaker, then airing all viewpoints very carefully before concluding with his or her opposing view); the use of stories and allegories to soften verbal discipline; the use of rhetorical questions and irony, providing an oblique approach to criticism; and saying what they think the other person wants to hear.

Yolngu ask and answer direct questions much less frequently than Balanda. A Yolngu person feels no obligation to answer a question seeking information ... Yolngu people frequently feel threatened by the explicitness required in a Balanda question-and-answer situation.

From their research at Milingimbi, Christie and Harris (1985, reported in Christie 1985:62-70) analysed Anglo/Yolngu communication difficulties in the classroom context. Beginning with the observation that well staffed and well resourced schools in remote NT communities had not (after 25 years) produced acceptable academic results, they focussed on 'the problem of communication between teacher and pupils which besets the Aboriginal classroom'. They then examine three major areas of difference between White teacher and Aboriginal pupils where 'each one exacerbates communication problems in the classroom':

Firstly, phenomenological differences—that is, differences in perspectives, expectations, understandings and interpretations—give rise to fundamental communication breakdown. ...

Secondly, there are language differences. The way in which White teachers and Aboriginal students refer to their classroom, its ideas, its equipment, and its inhabitants, and the way in which they expect to communicate with each other, are different. Finally, differences in learning styles ...

Christie (ibid.) drew the connection between child and adult phenomenology as follows:

traditionally-oriented¹² Aboriginal children have a distinctive view of the nature and function of school ... this view reflects traditional adult perspectives on knowledge and learning, and ... because of this, communication difficulties in Aboriginal classrooms are somehow inherent in the actual cross-cultural context, quite apart from language related difficulties.

Christie's analysis of semantic features in Yolngu languages (specifically, Gupapuyngu as spoken at Milingimbi) indicates two features that he sees as common in contributing to Anglo/Aboriginal communication breakdown: 'a general de-emphasis of purposefulness' and 'a general ambiguity as to the action of a verb'. As an example of the first, he points out that:

the *yolngu* words for 'thinking', 'learning', and 'knowing' ... refer most often to unintentional activities like worrying, realising and recognising, and less often to purposeful or creative cognitions.

In respect of the second, he observed that:

the *yolngu* word for 'to condemn' ... also means 'to dislike'. The word for 'ashamed' ... also means 'bashful'. The word for 'forgive' ... also means 'forget' or 'ignore'.

The social implication of this 'general ambiguity' is that these words 'can be used without any ascription of culpability' and that the high level indirectness in general speech that is permitted, facilitates harmonious relationships.

From these findings inferences can be drawn for Anglo/Yolngu communication in the criminal justice context. For interpreters these differing semantic features of English and Yolngu languages are constraining. Intentionality and purposefulness are prime considerations in the determination of guilt under criminal law and assumptions concerning the capacity of interpreters to translate without distortion may have to be qualified in this semantic domain. The same kind of concern obviously arises with the 'general ambiguity as to the action of a verb'. Similarly, for many Yolngu speaking in English without interpreting assistance (as is common) there is the danger that they will impose their Yolngu semantic structures upon many English words that they hear and will construct a meaning that is unintended. Conversely, their spoken words may carry an intended meaning that is different from the meaning that a native English speaking listener might infer.

¹² As an aside (at this stage), it is noteworthy that Christie has ascribed cultural features here on the basis of a traditionally-oriented category of Aboriginal people, rather than confining himself to the Yolngu group or extending to encompass all Aboriginal people. The relevance of this distinction in the context of language and the law will be taken up in the next section.

ARDS (1995b) emphasises mutual mystification as another source of miscommunication that features in Anglo/Yolngu discourse: the Anglo-Australian and Yolngu understandings of each other's social structures and processes are equally and severely distorted. For example, Anglo-Australian conceptualisation of Yolngu law as 'the dreaming' is for Yolngu false and misleading (and insulting). It conveys unreal, mythical and ephemeral qualities to that which, for Yolngu, is: 'the law from the foundation of the earth'; 'the ancient practise of the people'; 'the established rule of law'; and, 'a jurisdiction of law'. The mistake is analogous to 'some outsider to the Balanda saying that the system of law comes from a dream just because the hearer doesn't understand what Westminster means' (ibid: 4-6).

Yolngu are equally mystified by 'Balanda law' (i.e. Australian law) because of the nature of their contact with it. This began with apparent lawlessness reflected in the activities of murderous pastoralists, and then the 'rule of man' where the powers of mission superintendents extended to the role of 'prosecutor and judge on issues of community discipline' (ARDS 1994b:17). ARDS maintains that confusion extended through the period when mission assets and local government authority were transferred to locally elected councils in the 1970s, and persists to this day: 'At the present time the people of Arnhem Land are asking for education that will explain to them what councils are about'¹³ (p20).

1.3 Anglo/Aboriginal (other than Yolngu) communication in legal contexts

The relevance for this thesis of writings concerning Anglo/Aboriginal (other than Yolngu) communication in legal contexts requires some consideration. The fact that the Australian Aboriginal population encompasses many diverse groups makes it unreasonable to assume that what applies to one Aboriginal group and its interactions with Anglo-Australians will automatically apply to any other. This diversity encompasses differences in: lifestyle (traditional, rural or urban lifestyles in tropical, arid or temperate zones); histories of contact with the non-Aboriginal world; languages; and ceremonies, traditions and customs. The same argument applies even more strongly to any extrapolation between Aboriginal and Torres Strait Islander¹⁴ contexts.

At a national forum for the development of a national strategy for interpreting in Aboriginal and Torres Strait Islander languages in 1995, an Indigenous speaker from the University of Queensland, Penny Tripcony, stressed the following points concerning the issue of groupings within Australia's indigenous peoples (Tripcony 1996):

- Aboriginal societies and Torres Strait Islander societies form two distinct cultural frameworks which each encompass a number of groups ...

¹³ Of course, generalisations about the difficulties that Yolngu experience in the face of 'the white man's world' must be recognised as such. There are those Yolngu individuals who, with the benefit of university education and/or other life experience (overseas travel, artistic performance, political activism etc.), have attained a depth of knowledge and understanding of Western culture and its institutions that eludes many Anglo-Australians.

¹⁴ Torres Strait Islanders are the indigenous Melanesian people who live in the islands between the tip of the Cape York Peninsula in Queensland and the southern coast of Papua New Guinea.

- there are many similarities as well as differences between the cultures, histories, traditional and contemporary lifestyles of the various groups of Aboriginal people and Torres Strait Islander people; and
- a range of experiences, opinions, beliefs and aspirations exists among and within both Aboriginal groups and Torres Strait Islander groups.

The Criminal Justice Commission (C. C) in Queensland was careful in respect of unwarranted grouping of Indigenous people in its investigation into the difficulties that Aboriginal people face as courtroom witnesses, and that courts face in eliciting their evidence (CJC 1996:xi):

Aboriginal people and Islanders are often grouped together by governments when developing policy, but there are, in fact, significant differences between the cultures.

Nevertheless, some of the recommendations, for example, about the use or availability of interpreters in court, are applicable to Torres Strait Islander and other groups ... it is proposed that there be consultation with representatives of the Torres Strait Islander community to ascertain whether other recommendations contained in this report should also apply to Torres Strait Islanders.

Variation between groups within the Aboriginal population was also considered¹⁵ (ibid:14):

Many aspects of Aboriginal culture and language are fundamentally different from those of the society in which the adversarial legal system developed. However, the extent to which these factors present difficulties in court varies between and among Aboriginal groups. For example most sociolinguists acknowledge that language studies for people of a particular area are not directly applicable to all Aboriginal people throughout Australia ... On the other hand, communication issues such as suggestibility, indirect seeking of information and avoidance of direct conflict are common to many Aboriginal people ...

The extent to which an individual witness experiences difficulties in court will also vary with his or her degree of familiarity with Anglo-Australian culture and his or her ability to switch to the appropriate style of communicating.

The language background of an Aboriginal person is an obviously critical factor affecting communication with Anglo officials. An identifiable commonality that Yolngu have with many other Aboriginal people is their non-English speaking background. Furthermore, Yolngu are speakers of traditional or traditionally-based Aboriginal language varieties and so the structural, semantic and sociolinguistic features that are common to Aboriginal languages (e.g. Blake 1987; Dixon & Blake 1992; Nash 1979; Eades 1991) warrant some generalisations about typical difficulties that Aboriginal people with this background might face within the criminal justice system.

Commonalities between those Aboriginal people whose language is a creole or Aboriginal English variety and those who speak a traditional or traditionally-based variety, can be established in terms of sociolinguistic features. Eades (1992:10) argues that characteristic Aboriginal sociolinguistic features can be discussed on the basis of commonality in culture derived from 'overlapping kinship based networks sharing social life, responsibilities and rights, a common history and culture and experience of racism and ethnic consciousness'.

¹⁵ The Commission was assisted in its research on this point by (acknowledged) reference to articles by Cooke (1995d:16), Eades (1992:2) and von Sturmer (1981).

This commonality provides the rationale for seeking to specify Aboriginal patterns of socio-cultural influence upon meaning and upon ways of speaking. And the presence of these patterns in turn provides the rationale for examining how Aboriginal people speaking 'Aboriginal English' can be easily misunderstood by Anglo-Australians, even with varieties of Aboriginal English similar in form to Standard Australian English (SAE) (ibid.).

Another category of Aboriginal people that is often articulated in reference to communication issues in criminal justice contexts is the 'tribal', 'traditional' or 'tradition(ally)-oriented' Aboriginal (e.g. Mildren 1997:8; McRae, Nettheim & Beacroft 1997:374) to the extent that '(o)ccasionally, defence lawyers have successfully pleaded that traditionally-oriented Aborigines cannot be tried due to their incomprehension of legal proceedings' (McRae, Nettheim & Beacroft 1997:374). In the context of land claims made under the terms of the *Aboriginal (Northern Territory) Land Rights Act 1976* (Commonwealth), Walsh (1995:98) reports that the Kenbi Claim for areas around Darwin has brought the issue of traditionality in respect of Aboriginal people to the fore. The NT Government has been challenging the validity of claims and has argued before the Aboriginal Land Commissioner that the evidence given by urban Larrakia people is 'tainted', because the loss of the Larrakia language has broken the oral tradition of these people and, with that, the strength of traditional ties to the land. Thus 'the Kenbi Claim has become a test case for what it means to be a 'traditional' Aborigine'.

The relevance of recognising the 'traditional' or 'traditionally-oriented' category in this thesis derives from quite profound contrasts that are evident between the world view of Anglo-Australians and those Aboriginal communities whose physical, social and cultural isolation from mainstream Australian communities has persisted (as with the Yolngu). These contrasts have significant effects on the quality of intercultural communication. And while there are some Yolngu children who are now growing up in urban contexts and attending town schools, and some individuals who speak English more easily than Yolngu languages, they are exceptional—Yolngu consider themselves, and are seen by others, as traditionally-oriented.

Bain (1979:372-3 in Christie 1985:10) has discussed this contrast between Aboriginal and Anglo-Australian world view based on her time with Southern Arrente people at Aputula, in Central Australia, in the following terms:

the difference between Aboriginal and White is not so much one of attitude and value or of a preference between conceptually valid alternatives, but, instead, is rooted in contrasting world-view and ontology ... The essential element of this is the interactional /transactional dichotomy

She supports this finding by pointing to the interconnection Aboriginal people maintain between elements in their environment that Whites would not. For example, an Aboriginal person may perceive a particular landform or individual animal as a relative with the same kin

quality as a human relative in the same kin category, whereas the Western mind's objective analysis of these elements would render them as discrete. Interaction pervades the Aboriginal world—with deceased relatives, living ones and creation beings always present and unbounded by the Western-type notion of historic time. The transactional and controlling approach of the White person towards their environment (buying, selling, analysing, separating and altering) contrasts with the accepting and adapting tendencies of the Aboriginal.

The contrast in approaches and the potential for miscommunication because of this, are illustrated by an incident in the proceedings of the Royal Commission into the Lindy Chamberlain case¹⁶ (Chamberlain 1991:803), where the court attempted to engage a traditionally-oriented Aboriginal tracker in an analytical deconstruction of her former testimony by way of presenting a series of successive hypotheses. The Aboriginal tracker was undergoing cross-examination through an interpreter. She had spoken about searching the area around the tent from which the baby, Azaria Chamberlain, had been taken. She was testifying that the tracks leading from the tent indicated a dingo which had been carrying a baby.

The cross-examining barrister deployed the *Is it possible that (...)?* tactic¹⁷ whereby he would begin introducing, one by one, a number of merely hypothetical alternative explanations which might account for the witness's unfavourable observation. The process would normally culminate with the lawyer saying (or leaving unspoken) something like, 'So, given your acknowledgment of all these other possible explanations how can you be sure of your earlier assertion?'

In this instance the lawyer attempted through the interpreter to have the tracker accept a suggestion that the dingo might possibly have been carrying something else, perhaps a 'rabbit' or 'joey' (baby kangaroo). The tracker was showing signs of perplexity and anger at this repeated nonsensical questioning and this challenge to her integrity over a matter which she understood and knew the lawyer to be ignorant of, and responded, '*You are talking your ways with your ideas and you are talking about lies.*'

The Commissioner intervened to pursue this form of reasoning and asked directly, '*Could the dingo have been carrying a joey?*' Both barrister and judge were to embarrass themselves because of their preoccupation with the cause of reasoned analysis. The tracker's answer drew attention to the corollary implied by barrister's question. She asked, '*Was a kangaroo living in the tent?*'

¹⁶ Lindy Chamberlain went to prison after losing her baby, Azaria, to a wild dingo at Ayers Rock in Central Australia. The original inquest into the death had found thus, yet the findings were overturned. Mrs. Chamberlain was wrongfully convicted and imprisoned, in 1982, for murder, as the Commission subsequently found.

¹⁷ This is one of eighteen common cross-examination techniques described by Bellamare (1985).

To summarise, while the Yolngu are a distinct linguistic, cultural and geographical group within Aboriginal Australia, they do share some linguistic, sociolinguistic and cultural attributes in common with other Aboriginal communities. And while any such commonalities give relevance to research findings concerning Anglo/Aboriginal interaction apart from Yolngu, I consider it wiser to utilise such findings to help delineate issues for attention in the Anglo/Yolngu domain rather than to assume necessary concurrence. Work from Eades (1991, 1992, 1995a, 1995b), Goldflam (1995), Walsh (1995) and Koch (1991) is useful in this regard, for marking areas for research within the Anglo/Yolngu domain and for informing their analysis.

Eades (1992:52) has discussed several characteristics of Aboriginal communicative style relevant to legal interviews in Queensland. These characteristics include: resistance to direct questions; the expression of specific information in non-numerical terms (in respect of time, location and quantity); periods of silence (which can be misinterpreted by non-Aboriginal lawyers); avoidance of eye contact; confusion with English *either/or* questions; and, 'gratuitous concurrence'.

The term *gratuitous concurrence*, originally applied by Liberman (1985), is described by Eades (1991:91) as an agreement or confirmation (such as *Yes*) which 'does not necessarily signify the speaker's actual agreement with a proposition'. The phenomenon had been described/interpreted in another way by Kriewaldt, a judge of the NT Supreme Court between 1950 and 1960. Speaking in general terms about Aboriginal witnesses Kriewaldt J said (*R v Aboriginal Dulcie Dumala* (1959) NT 274, quoted in McCorquodale 1987:33):

the very process of question and answer which is the basis of the extraction of evidence, might not fully extract what he [an Aboriginal witness] knows, what he tried to say, nor what his intent was. An answer in the affirmative could indicate that the Aboriginal witness is trying to understand the question, that he has understood it, that he has understood part of it, that he may not have understood it at all, or that he does not want the question to go unanswered, or that he thinks that an affirmative answer is more likely to be acceptable to the questioner than a negative answer.

In respect of Aboriginal communicative style, Eades' experience (based predominantly in the SE Queensland context) has been that 'the most important element of sociocultural context is the indirectness which is central to much of the social interaction' (Eades 1991:89). This indirectness is reflected in the use of 'multifunctional linguistic forms', 'structurally ambiguous' or 'communicatively ambiguous' question forms. Conversely, communicative norms permit answers to likewise be indirect, particularly in response to requests. When asked to express opinions Aboriginal people adhere to 'a fundamental cultural view that Aboriginal persons can only speak for themselves' and tend 'not to express a firm or biased opinion, even if they hold one'. The result is that the 'style of gradually and indirectly expressing an opinion is a significant factor in cross-cultural miscommunication'. Although an indirect style is by no means alien to Anglo-Australian discourse, it is not a feature of courtroom questioning where, particularly in cross-examination, lawyers are often both

aggressive and direct in their questioning and usually demand direct and unequivocal answers.

Apart from pragmatic features of Aboriginal communicative styles, Eades (1992) also examined in some detail the effect of Aboriginal people using Aboriginal English in dialogue with SAE speaking lawyers. However, this was restricted to a consideration of Aboriginal English spoken in Queensland as a mother-tongue (which is distinct from varieties of learner's English, or interlanguage, spoken by people who are learning English as a second language, as is the case for Yolngu (see section 2.8.2 below)).

Implications deriving from some of these pragmatic features of Aboriginal English for the courtroom questioning of Aboriginal witnesses were highlighted by Eades in her report of the cross-examination of three Aboriginal boys during committal proceedings in the *Pinkenba Case*¹⁸ (Eades 1995b). They had been aggressively cross-examined at length over their evidence in this case where six Queensland police were facing charges of deprivation of liberty over an incident in 1994 when they took the boys from the precincts of a shopping mall at night to an industrial area 14 kilometres away, and left them to find their own way home.

Eades showed the extensive manipulation of these witnesses by counsel who appeared to Eades to be taking excessive advantage of the boys' Aboriginal English usage. Extensive gratuitous concurrence was evident as was misrepresentation by counsel of their silence in the face of many questions (e.g. '*We have to take your silence as "no", don't we?*') and of the boys' avoidance of eye-contact with counsel. Eades noted that cross-examining counsel may have been aided in their task by Eades' (1992) handbook for lawyers detailing advice on how to communicate more effectively with speakers of Aboriginal English—as they were reported to have had a copy of this with them (Eades 1995b:11).

The *Pinkenba Case* provoked comment by the Queensland CJC who observed that this case highlighted the particular vulnerability of Aboriginal people as witnesses in the criminal justice system—so-much-so that their lack of confidence and their fear often undermines their credibility and reliability, and therefore their usefulness as witnesses (CJC 1996:4):

The CJC found in its research and consultations that many matters do not proceed to trial because of concerns by prosecuting authorities that Aboriginal people will not be seen by juries or magistrates as credible or impressive witnesses. Defence counsel are often reluctant to call Aboriginal witnesses for the same reason. It was also apparent that many Aboriginal people are unwilling to give evidence because they feel intimidated and are not confident that their evidence will be treated fairly.

While Aboriginal land claim hearings obviously fall outside the criminal justice domain they are nevertheless proceedings where many Aboriginal people appear as witnesses. They have

¹⁸ *Crawford v Venardos & ors* (PS 2615-2620 o 1994, Magistrates Court Brisbane, 24 February 1995, unreported).

attracted research attention from linguists whose findings are of relevance here. With reference to the Kenbi Claim hearings, Walsh (1995) observed that Aboriginal witnesses from a variety of backgrounds gave evidence. Walsh formulated three fairly rudimentary categories of witness based on:

- the type of English they used at the hearings (Aboriginal English, non-SAE and SAE);
- their literacy in English (non-literate, semiliterate, and literate);
- stereotypical descriptors that might be applied to them ('bushies', 'yeller-fellers', 'townies', etc.)¹⁹; and,
- the degree of their acceptability under stereotypes of 'traditionality' (high, indeterminate and low)²⁰.

Walsh then found that witnesses who 'presented most [communication] difficulties for lawyers in land claim proceedings' were those who: spoke in Aboriginal English; were non-literate; had lived most of their lives away from towns; and, who tended to attract the label of 'traditional' at the hearings (ibid:120). He noted, for example, that for these witnesses most questions put under cross-examination 'miss the target' and that cross-examination tended to be relatively short.

Walsh (1994) also describes difficulties experienced by Aboriginal witnesses in regard to Aboriginal mores concerning the expression of knowledge, where these affect what witnesses can speak about openly. One result is that in reply to questions concerning their knowledge witnesses may refrain from answering or claim ignorance simply because they may not have the authority to speak on the matter.

Koch's (1985, 1991) study of language and communication in NT Aboriginal land claim hearings encompassed transcripts of 25 hearings up to 1986. In these hearings the majority of Aboriginal witnesses were native speakers of traditional Aboriginal languages, although all knew at least some English, and the general practice was to take evidence in English unless communication breakdown was clearly evident whereupon an interpreter's assistance would be enlisted. Of particular interest here are effects upon communication that Koch ascribes to the traditional Aboriginal language background of witnesses. Koch (1991) observed that these witnesses' English utterances represented a kind of interlanguage or, for Kriol²¹ speaking witnesses, were influenced by this interlanguage. Thus 'most witnesses' pronunciation of English showed influence from the phonological patterns of the TLs [Traditional Languages]'. Morphological effects included: omission of the articles *a* and *the*;

¹⁹ These terms can be paraphrased as follows: 'bushie' is a traditionally-oriented Aboriginal person from a remote community; 'yeller-feller' is a mixed race Aboriginal person; 'townie' is an Aboriginal person of an urban background.

²⁰ 'Traditionality' refers to features associated with a traditional (pre-European) lifestyle, such as: speaking a traditional Aboriginal language; participating in ceremonies; and having skills associated with hunting and gathering.

²¹ Kriol is an English-based creole spoken widely by Aboriginal people in various parts of the NT (but rarely in Northeast Arnhem Land).

loss of Standard English distinctions of case and gender for personal pronouns; omission of plural inflections from the noun; and, frequent lack of subject agreement or past tense agreement for verbs. Variable syntactically inappropriate use of prepositions was noted as was unusual ordering of sentence constituents (these features are also common in the interlanguage of Yolngu—see section 2.8.3 below).

Koch observed that there were attempts by both witnesses and counsel to accommodate communicative characteristics of the other. On the Aboriginal side, those witnesses who spoke Kriol would shift as far up the Kriol-to-English interlanguage continuum as they were able. Transcripts contained examples of witnesses correcting or even hypercorrecting their utterances in attempting standard English expression. Often the non-standard English of the witness was re-rendered in standard English by one or other of the interpreter, counsel or even Land Commissioner. For its part the court also attempted to accommodate the Aboriginal witnesses by generally avoiding complex English syntax and formal vocabulary. Counsel often interspersed Kriol lexical items and even attempted a few features of Kriol morphology. In spite of the attempts at accommodation by both sides, Koch found that miscommunication remained frequent. This included occasions where questions or their responses were not understood, or even when responses were not forthcoming because of cultural restrictions on what could be spoken of openly.

Goldflam's (1995) analysis of Anglo/Aboriginal miscommunication in the criminal justice system is focussed upon the problems faced by those Aboriginal people who simply cannot communicate effectively without interpreting assistance. He cites various and numerous trial transcripts, judicial decisions and commissions of inquiry which collectively show that 'the silence to which Aboriginal people have been confined by the criminal justice system is profound and endemic.' From an examination of the situation in Alice Springs in particular, he shows (with exceptions) a general reluctance by police, lawyers and the judiciary (particularly by overworked magistrates in the lower courts) to utilise interpreters, often for reasons of ignorance, strategy or expediency. The perplexity and fear that judicial proceedings evoke in Aboriginal people, for most of whom the whole Western legal process is alien, also means that they present very poorly as witnesses and are thus infrequently called to give evidence (i.e. the same outcome that was reported by the Queensland CJC (see above) in the Queensland context). The reluctance to use Aboriginal language interpreters is exacerbated by the lack of sufficiently trained and experienced interpreters effective in courtroom contexts.

Taken together, the work of Eades, Walsh, Koch and Goldflam, reviewed above, demonstrates that Anglo/Aboriginal communication breakdown in judicial proceedings is broadly based and stems from deeply rooted cultural, linguistic and sociopolitical factors. While this thesis is directed specifically at analysis of Anglo/Aboriginal discourse involving

speakers of Yolngu language(s), the work of these writers nevertheless serves to mark the course. The next step is to introduce the Yolngu, their languages and their sociolinguistic context.

CHAPTER 2

YOLNGU ETHNOGRAPHIC AND SOCIOLINGUISTIC FEATURES

2.1 The Yolngu, their land and languages: a preliminary synopsis

The Yolngu are the indigenous inhabitants of Northeast Arnhem Land which comprises the traditional estates of the Yolngu clans (see Map 1). These Yolngu clans (there are about 40 of them) are interlinked through intermarriage, kinship, ceremony and other traditional ties.

Northeast Arnhem Land is a region within the 80,808 square kilometre Arnhem Land Reserve that was established in 1931 to achieve protection and control over the Aboriginal inhabitants. The region includes the modern-day Aboriginal communities of Milingimbi, Ramingining, Galiwin'ku (on Elcho Island), Gapuwiyak (Lake Evella), and Yirrkala—communities that began as Methodist Church mission stations in the 1920s to 1940s. In addition there are around a hundred much smaller 'homeland' or 'outstation' communities. Close to Yirrkala is the mining town of Nhulunbuy that was established for the employees of the Nabalco mine and also as an administrative centre for Eastern Arnhem Land.

Each Yolngu clan is identified as the owner of a specified estate (which can extend offshore) and is characterised by its own Yolngu dialect. According to mutual intelligibility criteria these 40 or so dialects can be classified into five or six language groups²². The generic term used by Yolngu to refer to their languages, whether individually or collectively, is *Yolngu Matha* (*yolngu* = person; *matha* = tongue).

Exogamy is a compulsory feature of Yolngu society and this results in heterogeneous family groups with multiple clan and language affiliations, although children acquire their clan *identity* through patrilineal lineage. The daily use of several languages within the one family group promotes multilingualism among its members and those Yolngu who can converse in a variety of languages are held in high esteem for it. There are older Yolngu known to the writer who command seven or eight of these languages/dialects and whose passive knowledge extends to several more.

Such skilful polyglots are passing on without being replaced in the succeeding generations. In the past this propensity for multilingualism amongst the population generally obviated the need for a regional lingua franca, especially given the mutual intelligibility of many of these

²² See McLellan (1992:4-12) for a summation of linguistic consensus on this point.

languages. In cases where people did not understand each other's spoken languages, Yolngu Sign Language, which is used throughout Northeast Arnhem Land, was available to fill the gap (Cooke 1996c). However, the establishment of mission settlements saw the emergence of common community languages. At Galiwin'ku, Milingimbi and Gapuwiyak the *Djambarrpuyngu* language of the Djambarrpuyngu clan has become dominant. It is now common to find it spoken monolingually (or bilingually with English) even by non-Djambarrpuyngu Yolngu.

Galiwin'ku is the largest Yolngu community and the community where Djambarrpuyngu was first most clearly established as a common community language. All Yolngu Matha texts referred to in this thesis are in Djambarrpuyngu and all evidence given in Yolngu Matha, in the cases featured here, was in Djambarrpuyngu.

Djambarrpuyngu and other Yolngu languages are used in virtually all Yolngu transactional contexts in Yolngu communities: within the family; for social and ceremonial activities; and, in the church, school, clinic, store, council office and workshop. Community announcements made over community loudspeaker systems are given in Yolngu Matha and it is used on community radio. Local country and rock bands sing in Yolngu language. Yolngu Matha is favoured over English by all age and social groups of Yolngu. The extent to which English does intrude into Yolngu discourse is highly variable. In some contexts code switching is pervasive and it is most noticeable in the church and community council. When talking to Balanda, Yolngu often use a mixture of Yolngu Matha and English. There is also a variation between individual Yolngu—some consistently incorporate English into their speech even when Balanda are not apparently present.

Almost all those who speak English do so as a second or subsequent language and only a handful of NESB Yolngu speak English with native-like proficiency. While there are those who speak virtually no English at all, most Yolngu are able to converse in English at a basic level and there are many who speak it quite fluently. However, it should be noted that Yolngu use English in a restricted range of styles. Very few Yolngu have any familiarity at all with formal English or specialised registers of English, such as are used in a courtroom.

The local schools on Elcho Island, at Yirrkala and at Milingimbi operate Yolngu Matha and English bilingual programs. Bilingual education was instituted in Arnhem Land (and elsewhere in the NT) in the mid-1970s following the political recognition of the right of Aboriginal people to retain their mother-tongue and in recognition of pedagogical reality that school children who did not enter school speaking English could not be expected to acquire initial literacy in English during their early years of schooling. There were no trained Yolngu teachers until the 1980s (Yolngu worked alongside Anglo teachers as assistants) but now the majority of teaching staff at Yolngu schools is generally Yolngu. Many Yolngu children do

not attend school and, of those who do, a minority attends regularly. Very few children go on to secondary education since this requires them to leave their communities. The result is that very few adults have acquired English literacy skills beyond a basic primary school level.

A number of Yolngu educated or trained in earlier times by missionaries have, however, achieved prominence in Australia, with the Yolngu having produced 'some of our [Australia's] most influential Aboriginal leaders and pioneered the push for land rights' (Ceresa 1997). While the strength of their cultural tradition can be attributed to the fact that the 'onslaught of white colonisation, that Aboriginal people in the rest of Australia were subjected to, did not occur until relatively late' Williams quoted in Ceresa 1997), the outward looking demeanour of these traditionally-oriented Aboriginal Australians may derive from their extensive interaction with the Macassans (of South Sulawesi) during the previous two to three centuries (Cooke 1987). The significance of the Macassan/Yolngu interaction, which effectively ceased at the beginning of this century, is examined in Cooke (1987; 1996d:1-20), upon which the following section is based.

2.2 The Macassan influence

Macassan trepang fishermen had been coming each year to the NT coastline (which they called *Marrege*) from Macassar for many generations, beginning several hundred years ago. They came for trepang although turtle shell, pearls and pearl shell were also of value to them. The trepang were collected from the shallow waters, then boiled and dried on the shores. MacKnight (1976:29) suggests that during the first half of the 19th century between thirty and sixty *prahus* (traditional Indonesian sailing boats) carrying an average crew of thirty men visited each year. Thus, there must have been around a thousand sailors fishing the NT coast each year. By the turn of the 20th century the visits by the Macassans had become rare due to the South Australian government's active discouragement which included heavy taxes and harassment. (South Australia administered the NT at that time.) The last visit was in 1907.

Among the Aboriginal people of the NT coast, the strongest ties were formed with the Yolngu of Northeast Arnhem Land. The Macassan influence on Yolngu can be seen in many aspects of Yolngu life including religious, ceremonial, linguistic, technological, social and economic aspects. The significance of the Macassans was in part that they exposed Yolngu society to many facets of the 'outside' world long before their communities were directly affected by the White invasion/colonisation of Australia. The Macassans were not colonisers, invaders or permanent settlers and their yearly visits of several months duration were spent mainly gathering and processing trepang along the coastal shores. In Northeast Arnhem Land this often involved the participation of the local Yolngu inhabitants who were employed by the Macassans to work in both gathering and processing, with payment taking the form of axes, sugar, tobacco, cloth or other goods that the Macassans brought with them for this purpose. Some Yolngu were engaged as crew members on Macassan *prahus* and made the return

journey to Macassar. There, in return for their work they were paid with goods and with money to spend in the bustling sea port of Macassar. Some Yolngu even settled there and the ones who returned carried their experience of the new world back to Arnhem Land.

The impact of the Macassans upon Yolngu life is evident in the three hundred (approximately) Macassan words that have come into Yolngu languages. Since Macassar had already been colonised by the Dutch many of these loan words encoded ideas and concepts of the encroaching new order that was to bear upon Yolngu civilisation in the twentieth century. We can see from Macassan loan words that the Yolngu already knew of tobacco, alcohol, boats, guns, gold and iron. One important loan was *Balanda*, which derived from *Hollander* or 'Dutch person'. As a Yolngu term *Balanda* generally refers to those of European extraction. Now when Yolngu talk of *Balanda*, *Balanda ways* or *Balanda law*, they are usually referring to mainstream Anglo-Australia.

The corpus of Macassan loan words in Yolngu languages is exceptional among the other coastal languages of the Top End of the NT. The most extensive analysis of the linguistic influence of Macassar upon the Yolngu is provided by Walker (1988) who usefully classified the loan words identified by himself and Zorc (Walker & Zorc 1981), and Cooke (1987), according to semantic domain.

2.3 A sketch-history of White contact²³

Although Arnhem Land was opened up to pastoral leases in 1881, attempts at establishing cattle ranches in Northeast Arnhem Land were short-lived, partly because of the tenacity of Yolngu in protecting their clan lands. While there were, from time to time, hunting parties and punitive raids organised to hunt out and shoot the 'blacks', there was little sustained interaction between the cultures until the arrival of the missionaries at Milingimbi (ARDS 1994b).

For half a century—from the 1920s to the 1970s—the Methodist Church played a dominant role in the adaptation by most Yolngu to a settlement based lifestyle and to the impact of the West in general. This was a story with many aspects including: the cultivation of relationships between key power brokers on both cultural sides; shifts in power from the old Yolngu men to those younger Yolngu who had gained influence as interpreters or go-betweens; the interplay between the desire for flour, sugar, tea, tobacco and technology and the demand by missionaries for the Yolngu to adopt the Protestant work ethic; and, the interplay between competing Yolngu and Western philosophies of religion.

The missions and the missionaries must also themselves be placed into the larger political context since political events involving federal and state (or Territory) governments, the

²³ This section is adapted from Cooke 1996d:21-25.

churches, and other events such as WWII, were influential in the development of the mission settlements of Northeast Arnhem Land. A brief account of some of the major elements is therefore provided (for a full account see Thomson 1983; Benn 1994).

The missionaries entered Arnhem Land in the form of the Methodist Overseas Mission who established the Milingimbi mission in 1921/1922 during the era of Protectionism. This policy represented an acknowledgment by church and state that they had some responsibility for the physical survival of Aboriginal peoples in the face of the forces of destruction from many sides. The best solution for traditional Aborigines in remote lands was to isolate them from incursive Whites and their violence and other destructive influences. This also provided a means to control Aborigines and prevent them from drifting towards the towns such as Darwin. Thus, the Arnhem Land Aboriginal Reserve was proclaimed in 1931.

The Commonwealth legislative framework which supported the policy of protectionism in the NT was provided by the *Aboriginal Ordinance of the Northern Territory (1918)* which was eventually supplanted by the *Welfare Ordinance (1953)*. The legislation was administered by a Chief Protector and his sub-protectors (who were usually policemen) whose sphere of influence was, however, realistically limited to the more accessible localities around Darwin and Alice Springs. Remote localities such as Arnhem Land became the preserve of the churches through the setting up of missions. Churches were encouraged to establish missions on reserves as they were willing to perform the difficult tasks of ration distribution, adjudication and control, training and 'civilising', and did so more cheaply than could government agencies. Of course, from their own perspective, the missionaries' primary brief was to save souls.

The process by which Northeast Arnhem Land became the preserve of the Methodist Church was reviewed by Benn (1994). A meeting between Protestant Churches in 1913 discussed agreements as to the geographical localities which each would dominate. As a result of informal agreements a number of churches became active in different localities throughout the NT—the Methodist Overseas Mission, Church Missionary Society, Catholic Church and Lutheran Church.

The Methodists entered Northeast Arnhem Land as a result of this process. They were generally left to run their missions as they would, so long as they did not contravene any existing legislation. It should be added that along with minimal government interference there was also scant financial support. This situation remained until the era of assimilation strengthened following WWII. This saw the provision of substantial Government funding of mission projects (progress associations, housing associations and village councils had their beginnings later in this period) and, together with it, the desire by government for increased control. By the mid-1950s this was resulting in some tension between church and state in

Arnhem Land. The evolution of the informal policy of integration in the 1960s saw increased recognition of the rights of Aboriginal people to an increased involvement in decision-making, and the role of missionaries as controllers of Aboriginal people became increasingly untenable.

A dramatic shift in the direction of government administration of Aboriginal affairs followed immediately upon the election of the Whitlam Labour government in 1972. The policy of self-determination was a radical move; the implementation of this policy, whereby Aboriginal people should determine their own futures, proved a considerable challenge to the traditional 'wisdom'. In the NT the change in status of Arnhem Land under the *Aboriginal (Northern Territory) Land Rights Act 1976* (Commonwealth) marked the final stage of the mission era. The notion of a superintendent became necessarily obsolete as did church control of mission settlements. The new role for Whites in the administration side of community life was that of community adviser.

The passing over of power in community affairs by the Church to the Yolngu was completed during the 1970s. This is not suggesting that the Yolngu became entirely responsible for their own affairs. In some cases (for example, the governance of the schools) control had simply passed from church to government, and in any case the locus of control cannot be stated simply since it is usually a complex matter of interplay between office bearers, funding bodies, client groups, accountants, governments (NT and federal) and others. The 1980s and 1990s have seen a steady increase in the role of Yolngu in the management of their communities and yet, as ARDS (1994b) points out, the scene remains marred by failure and confusion as few Yolngu have the education and training to understand and operate a Balanda community administration system.

2.4 Aspects of Djambarrpuyngu language

Although all Yolngu languages share to varying degrees a body of common vocabulary, each clan group (*bäpurru*) identifies with a particular language or dialect. All Yolngu languages (except Yolngu Sign Language) are suffixing languages and exhibit similar grammatical organisation. Structurally, the Yolngu classify their own languages according to the word which means *this*. For Djambarrpuyngu, along with Djapu, Liyagawumirr and a number of other dialects, this word is *dhuwal* and thus this group of dialects is in the *Dhuwal* group. For other dialect groups the word for *this* can be *dhuwala*, *dhanu*, *djanu*, *dha'yi*, *yakuy*, *nhanu* or *djinan* (McClellan 1992:7).

Given that Djambarrpuyngu has emerged as the dominant Yolngu Matha variety in Northeast Arnhem Land (Cooke 1996d) and that the Yolngu Matha data that is utilised in this thesis is Djambarrpuyngu, the outline that follows will be based on Djambarrpuyngu. Nevertheless,

there are four other Yolngu Matha varieties that should also be noted for their prominence (albeit lesser) in the region:

- Gupapuyngu (a *Dhuwala* variety) is very close to Djambarrpuyngu lexically and grammatically and is widely spoken at Ramingining;
- Gumatj, another *Dhuwala* language, is less similar to Djambarrpuyngu than Gupapuyngu is. Gumatj is the dominant traditional language of Yirrkala;
- *Dhanu* varieties (Golumala, Furratjingu, Wangurri, Gaalpu, Ngaymil) are heard across Northeast Arnhem Land (particularly at Galiwin'ku and Yirrkala) and are distinct enough from *Dhuwal* and *Dhuwala* varieties to be considered a separate language/dialect group, and not mutually intelligible with them (McLellan 1992:8-9);
- *Dhuwaya* is a recent koine (Amery 1985; Wilkinson 1991:12) that has developed out of traditional Yolngu Matha varieties at Yirrkala and is now widely spoken in that community.

The pragmatic features of Yolngu discourse are common across all Yolngu Matha varieties. This derives from the extensive interaction between people of different clans and communities, and from the force of close kinship ties between clans. Many Yolngu are multilingual and this is a natural consequence of the fact that Yolngu cannot marry a member of their own clan, so that the extended family group incorporates members of a number of different clans. However, the choice of Yolngu language that a multilingual speaker uses varies according to the communicative context and can be pragmatically driven. For example, in formal public speaking it is considered appropriate to use one's own clan language even when the majority of the audience might be speakers of another. Also, in speaking to a Yolngu elder respect is signified by addressing the elder in his or her clan language, even if it is not one's own.

2.4.1 Grammar

The grammar of Djambarrpuyngu has been described by Wilkinson (1991). In terms of typology, Djambarrpuyngu is a highly agglutinating language in that the grammatical functions of words are carried in the complex system of suffixes. In contrast, English generally deploys word order and a rich variety of prepositions to define the grammatical relationships between the words in a sentence. Word order in Djambarrpuyngu is relatively free. Djambarrpuyngu words can be constructed using multiple suffixes which must be applied in a specific order. This can be seen in a word like *ɲarra-kiyin-gala-ɲa-wuy*, meaning 'only about me'. This is built from *ɲarra*, the unmarked form of the first person singular pronoun, by the sequential addition of three case-marking suffixes and a connecting suffix: -*kiyin* (EMPHATIC), -*gala* (OBLIQUE S'EM), -*ɲa-* (connecting suffix), -*wuy* (ASSOCIATIVE).

Parts of speech in Djambarrpuyngu can usually be distinguished according to patterns of inflection. There is a set of words that are inflected for case, the nominals, but which

Wilkinson subdivides into nomens (nouns/adjectives), pronominals, demonstratives, locationals and temporals. This division is justified by Wilkinson (1991:112) on the grounds that 'each of these subclasses has a unique range of case inflections'.

The verbal category also demonstrates an inflectional system based on four forms and these interact with other words to code tense, aspect, modality and mood. However, there is also a set of non-inflecting 'bare' verb roots. These particles can stand alone as a kind of shorthand or for stylistic purposes, for example in narrative.

The remaining words that do not take suffixes are categorised by Wilkinson as particles (ibid:118): 'They include "manner" adverbs, degree modifiers, directionals, tense-modality/mood-aspect particles, connectives, conversational particles, interjections, negatives.'

These distinctions between grammatical roles are not always clear-cut and a degree of overlap and ambiguity exists in a number of areas. For example, there is a small group of words which generally function as verbs (corresponding to English stative verbs) but do not take verb inflection and cannot co-occur with auxiliaries. They are *marŋgi* (know), *dhuŋa* (be ignorant) and *djäl* (want).

There is also a small set of suffixes that operate at the discourse level. Their *modus operandi* has yet to be satisfactorily understood (by linguists), although van der Wal (1985) has examined them in the context of Gupapuyngu (a closely related *Dhuwala* language). Each of the three Djambarrpuyngu discourse suffixes, along with almost all other Djambarrpuyngu suffixes, exists as a set of alternative forms where the choice of form is phonologically determined according to final sound on the stem to which the suffix is attached.

2.4.2 Phonology and orthography

Given that Yolngu orthography will be used extensively in this thesis, it is appropriate to attend to its description. Wilkinson (1991) distinguishes 31 different phonemes in Djambarrpuyngu, including 24 contrastive consonants, 3 short and 3 long vowels and the glottal stop. There is a striking contrast between the inventory of sound distinctions that are carried in SAE words compared to Djambarrpuyngu. For example, Djambarrpuyngu has three vowel sounds (/a/, /i/, /u/) each with a long/short distinction and so yielding a set of six vowels. Thus word-pairs like: *mari* (trouble, argument) and *ma:ri* (maternal grandmother); *bulu* (more) and *bu:lu* (bamboo); *gitkit* (laugh) and *gi:tkit* (seagull), are different only in the length of their (respective) vowels. In English this effect is very rare²⁴.

²⁴ There is in fact at least one pair of words which shows a long/short distinction in SAE, and that is *ferry* versus *fairy*.

English (SAE) does have a far greater inventory of vowels: 21, including 9 diphthongs. In Djambarrpuyngu there are no diphthongs. Another important distinction between English and Yolngu vowel phonology is that in Djambarrpuyngu the first syllable in a polysyllabic word is always the most stressed.

The distinction between SAE and Djambarrpuyngu phonology is just as marked in respect to consonants: in SAE there are 24 consonants just as in Djambarrpuyngu, but many of them are different. In Djambarrpuyngu there is no /v/, /f/, /ð/, /θ/, /z/, /s/, /ʒ/, /ʃ/, or /h/. Djambarrpuyngu exhibits 11 consonants that are not found in SAE. These include retroflexed consonants (there are five in Djambarrpuyngu), the trilled/tapped *r*, the interlamino-dental *n*, *d*, and *t*, and the lamino-palatal, /ɲ/ (written in Djambarrpuyngu as *ny*). The glottal stop (') is a further Yolngu phoneme that is absent in SAE.

The orthography for Yolngu languages was developed using mainly the English alphabet. In the following table Yolngu symbols are given in **bold** with IPA equivalents appearing immediately beneath.

CONSONANTS							VOWELS	
Bilabial	Apico-alveolar	Retroflex	Lamino-dental	Lamino-palatal	Velar	Glottal	Short	Long
p	t	ṭ	ṭh	tj	k	'	a	ä
p	t	ṭ	ṭ	c	k	ʔ	a	a:
b	d	ḍ	ḍh	dj	g		i	e
b	d	ḍ	ḍ	ɟ	g		i	i:
m	n	ṇ	ṇh	ny	ŋ		u	o
m	n	ṇ	ṇ	ɲ	ŋ		u	u:
w	l	ḷ	y					
w	l	ḷ	y					
	rr	r						
	r	ɽ						

2.4.3 Contemporary Djambarrpuyngu

In times past Yolngu learnt to speak the languages of their mother and father and frequently others as well. However, Devlin (1986:171) observed in his study of languages shift at Galiwin'ku that those Yolngu born before 1942—the year the Galiwin'ku mission was established—all know and use their patrillect. Those younger than this show a steadily decreasing use of their patrillect in favour of Djambarrpuyngu (ibid:177). Thus

Djambarrpuynu has emerged not only as a community language but as the first and principal language of the vast majority of Galiwin'ku's emerging adults.

Contemporary Djambarrpuynu is constituted by a range of sociolects, idiolects and registers that also includes the traditional Djambarrpuynu used by elder Djambarrpuynu clanspeople. There has been little work done in describing and defining this range although several writers have commented upon it (Devlin 1986:239; Wilkinson 1991:20; Yunupingu 1996:49; Cooke 1996d:43-6). Cooke suggests that the language shift in Djambarrpuynu is occurring on at least two fronts: changes, including a reduction in morphological complexity, being led by children; and an apparent steady lexical encroachment from English. Throughout this thesis comments upon Djambarrpuynu relate to the contemporary Djambarrpuynu as spoken by adults speaking it as their first language.

2.5 Yolngu communicative styles²⁵

Cooke (1996d) has recorded a description of 28 Yolngu communicative styles that have been identified by Yolngu as distinguishable in linguistic and sociolinguistic terms. Their existence is confirmed by the presence of Yolngu Matha labels for them and from the fact that Yolngu agree upon on their identifying features. None of these styles is confined to any particular Yolngu language except that hand-signing refers to Yolngu Sign Language, a language in itself. The relevance here of these communication patterns resides in their capacity to explain Yolngu communicative behaviour that might otherwise be misunderstood or misconstrued by police, lawyers or jurors. Examples have been selected on this basis and to provide an overview of Yolngu styles of social discourse. Accompanying descriptions have been provided by Yolngu students at Batchelor College (see Cooke 1996d:37).

- *Näthi* (ritualised grievous crying by women)

Following the death of a Yolngu person, middle aged and old women are commonly heard to mourn by crying the words of the ceremonial songs which sing about the totems and country of the dead person. This crying is a form of individual expression and grief and can continue for an hour or more at a time, and intermittently over many days. A woman might cry in this way whenever the feeling of grief and remembrance comes over her, no matter where she is and ignoring other things that are going on around her.

- *Narrtjunmirr* (arguing aggressively)

This is when people speak loudly to one another arguing and complaining to each other.

- *Warku'yunmirr* (teasing each other)

This is a special kind of discourse between people in certain kinship categories and it involves teasing and sometimes touching in a teasing way. The topic of this conversation often concerns lovers, the body and sexual habits as each makes up stories about the other. This is often done in front of others for everyone's amusement.

- *Bindharr'yun* (swearing)

²⁵ This section is based on Cooke 1996d:36-41.

This is making obscene references to another person, in anger or in teasing (acceptable between people who have a teasing kinship relationship).

- *Rum'rumdhunmirr* (avoiding each other)

This way of talking can take the form of indirect conversation (sideways speaking: speaking to someone through another person who is present), marked politeness and the use of the plural pronoun when talking to a person. It occurs between brother and sister and between those people who are in avoidance categories (that is, kin categories which require avoidance of direct speech and other interaction). It is a formal style of speaking which can also be used as a sign of respect.

- *Djawarrkthun* (haranguing in public)

This is when a person has something on their mind and gets it off their chest by speaking in a loud voice for everybody to hear. It can involve walking up and down through the camp while talking or yelling. If it is a man he might carry his spears or spear thrower to show that his concern is serious.

- *Rirrirri* (emotional speaking)

There is a very intense and emotional way of speaking which allows this emotion or anger to be expressed. It can occur in public contexts.

- *Betjcum* (calming someone down)

This way of talking often means agreeing with the position of someone who is angry and upset, and often involves talking about the common kin of the people in conflict in an attempt to overcome the misunderstanding.

- *Raypirri'yun* (instilling discipline, reprimand)

This is when an older person is telling younger people how to behave and telling the law that they should follow. It can involve singing as well as speaking. It can be performed in a ceremonial context or can occur outside of ceremonies where it takes the form of a reprimand or admonishment.

- *Raypirri'-badatj* (discipline-missing)

This takes the form of answering back in a cheeky way or being cheeky to older people or to relations who should be shown respect.

- *Buku-duwatthun* (raising of the face)

This takes the form of persistently pushing one's own agenda in a conversation.

- *Dhar'thar-gurrupanmirr* (giving pressure to one another)

This is when one person pressures or forces another person to do something, ask for something or get something.

- *Wanjanhamirr gonḏhu* (talking to each other with hands)

This refers to the Yolngu Sign Language. It is used by people for silent conversation or for speaking over a distance. Often people speak at the same time as they are signing. It is also the way deaf people communicate.

- *Dhāwu-lakaranhamirr* (relating stories)

This refers to the narrative style of relating events and stories, a common, everyday past-time in Yolngu society.

- *Marṅgikum* (teaching/explaining)

This is when a person teaches or explains something to another.

The presence of these communicative styles highlights the need for caution when people from one cultural background draw inferences from the behaviour of a person from another, without reference to their cultural context. For example, the *djawarrkthun* communicative

style (haranguing in public) which may involve a man parading with weapons as he berates, does not of itself generate anticipation of physical violence in a Yolngu context whereas in the Anglo-Australian context it would certainly attract intervention from police.

2.6 Yolngu kinship

There are times in the intercultural courtroom setting when the Yolngu witness is operating from a conceptual framework that is not shared with Anglo interlocutors. This occurs when the witness is speaking in terms of a highly developed and sophisticated Yolngu kinship system that provides a means of orientating and interrelating throughout the Yolngu world.

This system is founded in Yolngu creation history and is carried in ceremonial song cycles. It is a complex web that locates ego in respect of each other person in Arnhem Land, and with each place, tribe, ceremony, song, dance, and painting. It extends to animals, plants, waterholes, fish, celestial bodies, and so on. Not only does it relate ego to each of these, but also locates each item in terms of each other. Thus it is meaningful to speak of one language being kin to another, or a blue-tongue lizard being kin to a person or to another species. The system is not easy to describe in English terms or to speak about using ordinary English language. Yet some knowledge of it is a prerequisite to understanding how Yolngu orient themselves in space, time and society. It is fundamental to adult Yolngu cognition at virtually all levels and intrudes into almost every Yolngu communicative genre.

Yolngu have scores of precise kinship terms configured within this system. By way of example, just one of these terms is the word *märi*, one meaning of which is maternal grandmother. One calls her *märi* as you would her sisters. One also calls a rock formation *märi* or a lizard *märi* if that is one's maternal grandmother's clan's totem. It is such a pervasive system that people in Arnhem Land can fly between settlements and see their different kin as landforms across the landscape. It is so essential that Balanda residents are usually given a location within this network by being adopted into a family.

2.7 Yolngu concepts of time, number and location

Eades (1992:29, see section 1.3 above) has identified time, quantity and location as problematic semantic domains in the elicitation of specific information from Aboriginal people who commonly prefer to express specific details in non-numerical terms, whereas Anglo interlocutors tend to deploy quantified units. Added to this is Koch's finding (1991, see section 1.3 above) that mother-tongue speakers of traditional Aboriginal languages confuse English prepositions—which are central to the specification (in English) of location (see also Lester's 1973 comment in section 2.8.2 below). While the nature and detail of these difficulties in the Anglo/Yolngu discursive context will be examined subsequently (particularly in Chapter 10), a foundation will be laid here by reviewing Yolngu conceptualisation of time, quantity and measurement.

The extent to which Yolngu Matha encodes relational concepts of time, number and space was reported by Cooke (1991b) following a field-based survey of the Djambarrpuyngu lexicon in these domains²⁶ that also identified an Aboriginal predilection towards making qualitative comparisons. Section 2.7.1 below provides an illustrative compilation of terms that are indicative of the Yolngu conceptualisation of time. Section 2.7.2 follows with a brief outline of traditional Yolngu counting terminology and arithmetical concepts. Finally, section 2.7.3 provides a more detailed outline of how Yolngu encode conceptualisations of location.

2.7.1 Time

For Europeans time is seen very much as a linear notion while for Yolngu the cyclical aspect remains more dominant. In both societies time intervals (day, month, year) are derived from natural cycles involving the sun and moon except that Europeans quantify these using standard units and in reference calendars and clocks. Nowadays Yolngu also use calendar months and clocks although their primary orientation remains with the natural cycles that underlie them. The following is a selection of Yolngu terms expressing time concepts:

Yolngu Matha	Literal Meaning	Extended Meaning
<i>walu</i> , <i>daykun</i>	sun	day, time, clock
<i>munha</i>	dark	night
<i>ṇalindi</i>	moon	month (lunar or calendar)
<i>waltjan</i>	rain	rainy season, year
<i>dhunḡarra</i>	year	(year)
<i>godarr'</i>	morning	tomorrow
<i>yalala</i>	later to lay	later on
<i>gāthur</i>	today	earlier, earlier today
<i>bonḡun</i>	tomorrow	another day or a later time
<i>barpuru</i>	yesterday	a recent day or time

While many Yolngu refer to times of the day by reference to the hour (though often not precisely) there remains a strong focus on association with environmental changes, such as in:

<i>walu-gārrinyaray</i>	when the sun goes inside	sunset
<i>wuṇuli-gal'yunaray</i>	when shadows are crawling	early afternoon
<i>dhulmu-milmitjpa</i>	deep afternoon	dusk
<i>dāmbu-walu</i>	head-sun (sun overhead)	midday

Times within a month are indicated by the state of the moon and times of the year are expressed in terms of named seasons, seasonal wind directions, or environmental conditions.

For example:

<i>yuta ṇalindi</i>	new moon	beginning of the month
<i>likan</i>	elbow (also crescent)	new moon, old moon
<i>birrku'</i>	full moon	full moon
<i>luku-nhāranhamirriy</i>	when the feet burn	late dry season (Aug. to Oct.)
<i>bārra'mirriy</i>	the time with the west wind	early wet season
<i>dharratharra</i>	(named season)	early dry season (May to July)

²⁶ This section is based on Cooke (1991b) which also presents an analysis of mathematical qualities discernible in the structure and rules of the Yolngu kinship system. The view that Aboriginal kinship systems are appropriately seen as mathematical structures is also expressed in P. Harris (1991:19).

2.7.2 Number

Number is encoded in many ways within Yolngu languages apart from the obvious counting words. Singularity, duality and plurality are normally made explicit in Yolngu languages for nouns through the form they take and/or through the words which qualify them. The various strategies include the use of plural suffixes, markers expressing duality, reduplication, plural nouns, and dual/plural pronouns (substituting for numbers). There are also pluralised forms for some verbs (though reduplication of the verb stem is more common) and for some adjectives. As a general rule in Djambarrpuyngu, unmarked or unqualified nouns are taken as being singular.

Yolngu Matha encodes a base five counting pattern. However, it is rare to hear Yolngu enumerate beyond ten using Yolngu numbers. The English counting system has been adopted. The Djambarrpuyngu counting system is formed as follows:

1	wangany	
2	märrma'	
3	lurrkun'	(also means a few)
4	dämbumiriw	(lit. without a head)
5	goŋ-wangany	(one hand)
6	goŋ-wangany ga wangany bäythinyawuy	(one hand and one left over)
7	goŋ-wangany ga märrma' bäythinyawuy	(one hand and two left over)
8	goŋ-wangany ga lurrkun' bäythinyawuy	(one hand and three left over)
9	goŋ-wangany ga dämbumiriw bäythinyawuy	(one hand and four left over)
10	goŋ-märrma'	(two hands)
15	goŋ-lurrkun'	(three hands)

A number of Yolngu verbs are used to represent operations with quantities. They include:

<i>bothurru</i>	count (from Macassan <i>botoro'</i> : gamble, play dice)
<i>luŋ' maram</i>	gather together in one group
<i>manapan</i>	add together, place together (e.g. to compare length)
<i>barrkuwatjkum</i>	make separate, place apart
<i>djaw'yun</i>	subtract, take away, steal
<i>gurrupanmirr</i>	share (not necessarily equally; literally: give to each other)

2.7.3 Space and the grammar of location

Djambarrpuyngu has eleven case suffixes (Wilkinson 1991), several of which fulfill the functions of the English locational prepositions *at*, *in*, *on*, *under*, *with*, *from*, *to(wards)*, *out of*, *along*:

Locative/Ablative	- <i>ŋur</i>	e.g. <i>munatha-ŋur</i> (on/from the ground)
Allative	- <i>lil</i>	e.g. <i>wäŋa-lil</i> (towards home)
Perlative	- <i>Kurr</i>	e.g. <i>raŋi-kurr</i> (along the beach) (alternative forms: - <i>kurr</i> , - <i>gurr</i> , - <i>wurr</i>)
Oblique	- <i>Kal</i>	e.g. <i>nhina ga miyalk-kal</i> (sitting with a woman) (alternative forms: - <i>kal</i> , - <i>gal</i> , - <i>wal</i>)

Locationals are a closed class of a dozen words that include:

<i>galki</i>	near
<i>barrku</i>	far
<i>garraamat</i>	high, above
<i>bura/napuŋga</i>	between

<i>djinaga</i>	inside
<i>warraŋul</i>	outside
<i>laypa</i>	at the other side
<i>dhunupa'ŋu</i>	right
<i>wiŋ'ku</i>	left

They can be used without suffixes; and carry functions similar to English locational prepositions. However, they can also interact with Locative, Allative, Perlative and Oblique suffixes that are attached to nouns and specify the spatial reference or context to which the locational refers. For example, the Locative suffix *-ŋur* is in itself often ambiguous so that if one asks a question like *Where is my knife?* the answer might be *mutika-ŋur* (car-LOCATIVE). This can mean: *in the car, on the car, by the car* or *under the car*. If the intended meaning is not clear from the context then the appropriate locational can render the meaning precisely, as in:

djinaga mutika-ŋur
inside car-LOCATIVE
inside the car

Locationals can also perform Ablative, Perlative and Allative functions through taking the appropriate suffix:

djinaga-ŋur *mutika-ŋur*
inside-ABLATIVE car-ABLATIVE
(out) from the car

bura-kurr
middle-PERLATIVE
through the middle

wapthu-rr *djinaga-lil*
jump-PAST inside-ALLATIVE
jumped inside

There is a group of directional terms in Djambarrpuyngu which derive from specific seasonal wind names. They are:

<i>lungurrma</i>	northeast wind	north
<i>djalathanj*</i>	south wind	south
<i>dhimurru*</i>	east wind	east
<i>bärra'*</i>	northwest wind	west

(* Macassan loans: *sallatang* (south), *timoro'* (east wind), *bara'* (west wind).)

These terms can be combined to express medial directions. For example, *dhimurru-makarr-lungurrma* (literally: *east-thigh-north*) means *northeast* (Zorc 1986).

In Djambarrpuyngu extensive use is made of the names of body parts in locating in space. This is achieved by deploying the appropriate suffix. The body parts themselves double as names for physical or geographical features (as cliffs, headlands, rivers etc.):

<i>buku</i>	<i>buku-ŋur</i>	<i>buku-kurr</i>	<i>buku-lil</i>
face, cliff, hill	at the top	along the ridge	to the top

<i>läy</i> temple, side	<i>läy-ŋur</i> at the side	<i>läy-kurr</i> along the side	
<i>ŋurru</i> nose, headland, point of	<i>ŋurru-ŋur</i> at the beginning	<i>diltji</i> back, bush	<i>diltji-ŋur</i> at the back
<i>ŋoy</i> abdomen below the navel	<i>ŋoy-ŋur</i> below, under	<i>mayan̄'</i> throat, river	<i>mayan̄'-ŋur</i> in the river

Yolngu most frequently measure by a process of comparison or reference rather than by enumeration in units of measurement, although not exclusively so: it is quite common to express distances between places in terms of the number of nights spent camping whilst travelling between them. There is a variety of terms for comparing physical attributes (although many attributes are not named as such). Examples are:

<i>weyin</i>	long
<i>wałarr</i>	tall
<i>dhumbul̄', gurriri</i>	short
<i>yindi</i> (plural: <i>dilkurr</i>)	big
<i>nyumukuniny</i> (pl. <i>yumurrku</i>)	small
<i>dhamburru*</i>	fat
<i>bārka, binydjitj</i>	thin, narrow
<i>bondi</i>	fast
<i>bulnha</i>	slow
<i>ŋonun̄</i>	heavy, dense
<i>damba*</i>	light (also <i>hollow</i>)
<i>däl</i>	rigid (also <i>strong</i>)
<i>yalŋgi</i>	lax (also <i>weak</i>)
<i>djaka*</i>	length/height
<i>djaka-ŋupan</i>	measure (lit. <i>follow length</i>)

*Macassan loans

The terms above are elaborated by the use of qualifying adverbs such as *märr* (fairly) and *märr ganga* (a little). Thus *yindi märr* means *fairly big/a fair bit bigger*. Linear dimensions of height, width, length and distance are specified by means of reference to an equivalent. So one person might delineate the distance at which a wallaby was shot by nominating a reference point of equivalent distance (e.g. *like from here to that tree*).

2.8 The Englishes that Aboriginal people speak

There is a great deal of lexical and grammatical variation between the non-standard varieties of English that Aboriginal people speak. The use of the term Aboriginal English(es) as a cover term for all these non-standard forms is not justified on the basis of their grammar (including phonology) and lexicon even if there is a sociolinguistic basis with Aboriginality as the common factor. The non-standard English of significant numbers of Aboriginal people can be attributed to their position as native speakers of traditional Aboriginal languages who are learners of standard English. Thus their English usage may possibly have more in common with the interlanguage of some migrant groups acquiring English than with the non-standard English varieties spoken as a first language by other Aboriginal people. Any characterisation of Aboriginal Englishes as representing a Kriol-to-SAE or 'heavy-to-light' continuum (see

Eades 1992:25) should therefore be considered to exclude interlanguage varieties (except where the situation could be linguistically complicated in the case of learners being influenced by Kriol speakers or native speakers of an Aboriginal English as language models).

Before moving to consider how the English(es) spoken by Yolngu can best be conceived, the difficulty in classifying non-standard Englishes spoken by Aboriginal people in the NT as Aboriginal English is discussed.

2.8.1 The characterisation of Aboriginal Englishes

Kaldor and Malcom (1991:71-2) point out that while it 'is customary to regard this range [in Aboriginal English varieties] as a continuum between Standard Australian English (SAE) and the creoles', this perspective on Aboriginal Englishes is simplistic. This is because 'one is confronted here not with one continuum but a whole host of continua' where '(a)t this stage, it is not possible to trace any of these continua with any hope of accuracy'.

The complexity of the patterns of use by Aboriginal people of English-based language forms is illustrated by two Aboriginal writers from Gunbalanya, a multilingual Aboriginal community in Central Arnhem Land. Singh and Djayhgurrnga (1990) recorded and described language use in their small community of a few hundred people where the community language is Kunwinjku (a traditional language) but where various English related languages/dialects are used as well. They identify Standard English, Aboriginal English, NT Pidgin and 'missionary English' (i.e. English-Kunwinjku interlanguage) as varieties in regular use:

the people who use Aboriginal English use it as a second dialect of English to communicate with other Aboriginal people from other communities who are not Kunwinjku speakers. It feels more natural for Aboriginal people to use Aboriginal English with each other, and it is quickly learnt. We feel its use does not threaten either Kunwinjku or our knowledge of Standard English because we know we can move easily between all of these languages and dialects according to the social situation.

Other Aboriginal people at Gunbalanya do not use Aboriginal English amongst themselves but always use Kunwinjku. However, some of the old people who cannot speak English use a form of Pidgin when speaking to European people. Other older people use a form of English closer to standard English when speaking to Europeans. They learnt this from the missionaries.

In describing the use of these English-based language varieties at Gunbalanya, Singh and Djayhgurrnga show that they are recognised as distinct language varieties which may be worthy of individual consideration rather relegation to a single entity, albeit a continuum.

2.8.2 Learner's English: another set of non-standard language varieties

The other set of non-standard varieties of English that must be accounted for concerns learner's English or 'interlanguage'. The notion of interlanguage, conceived by Selinker (1969), refers to the utterances of those learning a second language who, while attempting to achieve native speaker norms, fail to (consistently) do so. Selinker saw the need to deal with

interlanguage ‘as a system, not as an isolated collection of errors’ (Selinker 1969 quoted in Selinker 1992:231). The term applies to both the internal system constructed by a learner at a given point in time and to the series of systems that describe the learner’s development in the target language over time (Ellis 1994:350). In this second sense an interlanguage is a continuum that covers the learner’s second language competence from an early stage of acquisition to the point of a learner who has almost reached the proficiency of a native speaker. Learners of any given language tend to make similar errors and pass through similar successive stages of competence in acquiring that language.

There is also variability in language use by learners at any given stage—just as the language of native speakers is variable. This variability appears to be systematic in several senses. These are that learners alternate their use of forms according to linguistic context, situational context and stylistic context (learners are much more likely to use correct target language forms in situations that warrant a *careful style* as opposed to informal *vernacular style*) (Ellis 1994:22).

General understandings about learner language that have emerged across a variety of studies have been reviewed in Odlin (1989), Selinker (1992) and Ellis (1994). They are indicative of possible attributes in the case of English-Yolngu Matha interlanguage and form the basis for the discussion that follows. An important introductory point is that non-standard features of interlanguage can be attributed to factors external to the learner (the sociolinguistic environment including the nature of the linguistic input) and internal factors (effects of universal properties of language, universal cognitive language acquisition processes and influences from previously acquired language(s)).

Despite universal similarities among languages, consistencies in the patterns of acquisition by native speakers of one specified language learning a second specified language, give rise to the capacity of individual interlanguages to be characterised separately. Consequently, the interlanguage of Djambarrpuynu speakers acquiring English would be distinct from that of (say) French people who are acquiring English. Of particular interest in the case of the interlanguage of Yolngu are the effects of Yolngu Matha in shaping this language variety.

The term *language transfer* (or cross-linguistic influence) refers to the manifestation of features from the learner’s previously acquired languages(s) in the interlanguage. Transfer may be variably manifest as errors, as the overuse or avoidance of certain forms or structures, and as code switching (changing from one language variety to another, even in the middle of a sentence). Transfer may also have other effects such as on the rate or course of acquisition. While there is not consensus among linguists as to how far the non-standard features of interlanguage can be attributed to transfer compared to other cognitive factors, the effect remains important. Ellis (1994:29) provides a summary of the current position:

Evidence for transfer in all aspects of language—phonology, syntax, semantics and pragmatics—is now abundant. Furthermore, there is recognition that transfer may not always manifest itself as errors (the focus of earlier studies), but also as avoidance, overuse and facilitation.

There are clear consequences of this discussion for the conceptualisation of Aboriginal Englishes, particularly in respect to their grammar. The most obvious is that it is not appropriate to consider the non-standard interlanguages of those Aboriginal people who are native speakers of Aboriginal languages as necessarily conforming to the category of Aboriginal Englishes spoken by other Aboriginal people as their first and primary language. Secondly, while there are structural similarities across many traditional Aboriginal languages (with the strongest being phonology) there is not nearly a degree of uniformity that would warrant proclaiming an identity in the interlanguages of learners of English across different Aboriginal language groups.

The areas where commonalities may indeed occur—both among English-Aboriginal interlanguages, and between these interlanguages and Aboriginal Englishes—are in pragmatics and (to a lesser extent) semantics, deriving from commonalities among Aboriginal communities. Thus the inappropriate ‘gratuitous concurrence’ that Eades (1992) has identified with speakers of Queensland Aboriginal English (who speak this variety as their first language) under questioning by police or lawyers, does appear to have wide currency. In semantics, the common inclusion in Queensland Aboriginal English of maternal aunts under the label of *mother/mummy*, and paternal uncles under the label of *father/daddy*, conforms with the same phenomenon in Aboriginal languages across Australia (including Kriol), and arises from the common way these concepts are framed within Aboriginal kinship systems.

Many of the difficulties that are observable in Anglo/Yolngu discourse may well be traceable to the nature of the English-Yolngu Matha (henceforth, E-YM) interlanguage, and although it is not a purpose of this thesis to provide a description of this system, the concept of cross-linguistic interference will be useful. Following Selinker (1992:11) on the utility of contrastive analysis, comparisons between English and Djambarrpuynu, while not reliable predictors of language transfer phenomena (such as learner errors), may well provide insight into them.

The problem of linguistic interference in creating communication difficulties in courtrooms is raised by Lester (1973), an Aboriginal interpreter with long experience in Alice Springs courts. He observed the effect in the case of Central Australian Aboriginal languages and English (p2):

The people have no understanding of connecting or qualifying words like ‘if’, ‘but’, ‘because’ and ‘or’. In our languages these are part of another word or they don’t exist. We have no word for ‘because’. The same with words like ‘in’, ‘at’, ‘on’, ‘by’, ‘with’, ‘over’, ‘under’ and so on. For these there is one ending that goes on other words. Most of the people when they speak English leave out these words. When they hear them they do not understand their meaning.

Yet Lester's comments in relation to speakers of Central Australian Aboriginal languages also illustrate the importance of refraining from over-generalising to speakers of other Aboriginal languages when *they* use English. For example, in Djambarrpuyngu there *are* words for 'if' (*ɲuli*), 'but' (*yurr*), 'because' (*bili*), and 'or' (*wo*). Nevertheless, the problems Lester cited with locative prepositions are probably applicable to Yolngu in that the meanings of *in*, *at*, *on*, *by* are encompassed by the one suffix *-ɲur* (see discussion of *-ɲur* in section 2.7.3 above).

Elwell's (1979) study of the English spoken by the Yolngu at Milingimbi characterises Yolngu forms of Aboriginal English as an interlanguage with speakers exhibiting various stages of development towards approximations of the standard models provided by teachers, missionaries and other non-Aboriginal workers with whom the Yolngu have regular contact. Her findings provide the basis for the discussion which follows.

2.8.3 Yolngu ways of talking in English

Elwell's study took place in the Yolngu community of Milingimbi (closely linked to Galiwin'ku and with a common mission history and pattern of language use) at a time when Djambarrpuyngu was already the dominant community language (pp37-53). Elwell explains about the English spoken by Yolngu (p4):

Because it is a dialect of English used as a second language [i.e. an interlanguage] and not a standardised pidgin or a first language such as creole, a wide range of variation exists at all linguistic levels. While linguists treat language ideally as unified "systems", this is not possible in the case of Milingimbi English. It is not a describable entity in its own right like "Standard English", "Gupapuyngu" or "Cape York Creole". It must be regarded as a system which is a continuum, containing considerable variation at all linguistic levels, ranging from forms approaching very closely to Standard Australian English at one end of the continuum, to forms at the other end where the influence of Standard Australian English appears to be relatively weak and the vernacular very strong, (often because of a very limited competence in Standard Australian English). Each person commands a range of the continuum, not a single point, the extent of this range being dependent on the level of his or her "best" English.

Elwell presented two significant findings that are significant to this thesis. One was the result of a survey of the entire adult population of Milingimbi regarding their proficiency as speakers of English, and the other was to describe the features of the 'Milingimbi English' interlanguage.

The survey (conducted in 1978) showed that while all but 20 of the 332 adults at the community spoke some English, there were only 12 people who commanded English at a level approaching the native English speaker. And even with these people the 'new arrival [i.e. an Anglo-Australian unused to Yolngu contact] will often feel baffled after a conversation ... their choice of vocabulary, use of verb morphology and ellipsis, and certain features of their discourse structure, will often leave the new arrival wondering exactly what has just been said or meant' (pp107-8).

Elwell found the ‘Milingimbi English’ interlanguage to consist of a range of both ‘fossilisations’ (errors that have become entrenched and that are reproduced unconsciously in creative speech) and sporadically occurring non-standard features, as well as features consistent with SAE. The fossilisations usually reflect interference from Yolngu Matha, an example being the common use of *mother* to encompass maternal aunts—reflecting the Yolngu pattern of Yolngu kinship categorisation.

Yolngu Matha phonology (which is quite typical of the Australian language family) was seen to have the most consistent and definable effect on Milingimbi English (p353):

SAE alveolar stops tend to be reinterpreted as stops ... with some other place of articulation ... (h) is rarely used ... fricatives and affricates are often reinterpreted as stops, or another type of fricative ... Yolngu frequently do not distinguish SAE voiced and voiceless consonants ... vowels are reinterpreted ... consonant clusters are often reduced ... Words tend to receive primary stress on the first syllable, even when this is not the case in SAE.

Morphological features of the interlanguage that distinguish it from SAE include (p354):

- optional marking of noun phrases in respect of number;
- common failure to distinguish between masculine and feminine in third person singular personal pronouns (*she* is often used when SAE would use *he*);
- tense need not be specified;
- the copula is optional as is verb concord;
- derivational affixes are uncommon;
- morphological code switching; always entails the use of Yolngu Matha suffixes on English words, never the reverse.

Syntactic features include:

- more flexibility than SAE in the use of determiners and the ordering of nouns and adjectives;
- the articles *the* and *a* are used extensively in environments where they could not be used in SAE;
- prepositions, particularly *to*, *in*, *on*, *at*, frequently have extended semantic domains in Milingimbi English or are used when they would not be necessary in SAE;
- the Yolngu Matha conjunction *ga* frequently replaces *and*.

These features are just as observable in the contemporary speech of Yolngu at Galiwin’ku and elsewhere in Northeast Arnhem Land. It is also interesting that Koch’s (1991) study of transcripts of Aboriginal land claim hearings (noted in section 1.3 above) shows similar patterns among Aboriginal witnesses from other areas of the NT speaking in English who were native speakers of traditional languages.

The following extract is chosen to illustrate the interlanguage of Yolngu speakers of English. It is from an interview with George Dayngumbu (GD), a Wangurri elder, who came to Galiwin'ku from Milingimbi as a young boy. It was recorded in 1994 at Galiwin'ku and is taken from Cooke (1996d:27). The Yolngu Matha that is incorporated by way of code switching is Djambarrpuyngu.

- GD: I was come from Milingimbi, that's where I was born. I was born in 1933 – second of *nhawi* (what's-it), second January 1933. That's *ɲarraku* (my) birthday. And after – after *mak* (maybe), say maybe ten or eleven years in Milingimbi, after eleven years I moved, during the War, before, before 1942 when the war stop. I was moved from Milingimbi during the War.
- MC: Everybody, or just you?
- GD: No, me and my family and the Sheppy (Harold Shepherdson) in same time was living in Milingimbi, before they bombed at Milingimbi in Japanese War. *Ya balanya* (see, like that), on that day when we moved.
- And after we moved from Milingimbi then we landed in Galiwin'ku. There was nobody! Just few of us: *Narra* (myself) *ga* (and) *Bäpa* (Father) *ga* (and) *ɲāɲdi* (mother) *ɲarraku* (my) and few other people who come with *Bäpa Sheppy* (Father Shepherdson) and *Ŋāɲdi* (Mother), Mrs Shepherdson. And *ga* (and) *wangany* (one) Fijian.
- MC: On one boat?
- GD: *Wangany* (one) boat lot of them, and all their stuff from Milingimbi, all the sawmills and ah, *nhawi* (what's-it), all their buildings and other things. We landed here and next morning we unload the boat. When we unload the boat, finish, he went to Milingimbi again to get all the other stuff.
- And that's where, just *nyumukuniny* (little) on the beach. Just Mission Bay. And after that, *napurr* (we) *nhakun* (kind of like) *dhäwu* (message) *dju'yurr* (sent) other Yolngu *mala* (groups) *mak* (maybe) *ɲula bala* (over there) *ga* (were) *nhina'-nhina* (staying), *wo* (or) *ɲula bala* (over there), *ɲula bala* (over there), *limurr* (we) *dhu* (will) *marttji* (go) *larrum* (search). And we did, we sent some Yolngu over to look around for these old people, really *wāɲa-waɲaɲu* (landowners) *dhuwalaɲawuy* (for this area) – not *wāɲa-waɲaɲu* (landowners) but they *wāɲa-waɲaɲu* (landowners) from *nhawi* (what's-it) *Gäriyakɲur* (from Gaarriyak).
- MC: The ones who were living here?
- GD: They was living here. *Ga ɲunha bala walal märraɲunyɲja* (And over there they brought) *ga* (and) they was the Yolngu that belongs to this *wāɲa* (land), and ah, we start shifting all the *djāma* (work), we shifting all the timbers, we shifting place all the *djimuku* (iron), up to the place where we starting *nhawi* (what's-it) sawmill.

The features of Milingimbi English reported by Elwell (1979) nearly twenty years ago remain current, not only at Milingimbi but also in other Yolngu communities. And while there are now some Yolngu who have achieved native speaker proficiency in English, they are few in number and the 'best' English of the vast majority of Yolngu coincides with points on the E-YM interlanguage continuum where the influence of Yolngu Matha remains strong enough to inhibit clear communication with Anglo-Australians, especially in formal communicative contexts such as criminal proceedings. In fact, there is some evidence that the level of English proficiency among the present generation of young adults may be lower than their parents. During discussions with Yolngu trainee interpreters at a course held at Galiwin'ku in October 1996, visiting police from Nhulunbuy reported experiencing most difficulty in communicating with young offenders (those under 25-30 years old). This situation may be the result of sustained low levels of school attendance at Yolngu community schools over recent years, in contrast to the relatively full attendance enforced under the mission regime.