13. Mapping expectations around a 'governance review' exercise of a West Kimberley organisation

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Introduction

The term 'governance' relating to the management of Australian Indigenous organisations and communities became increasingly common in the late 1990s. By the early 2000s, a suite of training packages were being developed to address particular deficiencies identified as part of a new focus on capacity building in Indigenous organisations.[1] The focus of such training, however, along with the considerable range of meanings associated with the term 'governance' itself, was wide ranging and variable in its effectiveness.[2]

Since around 2000, there have also been policy shifts encouraging the amalgamation of smaller organisations into larger 'umbrella' structures. This process has seen smaller, historically distinct entities losing their previous role as independent recipients of government funding, and retaining a representative function only. This has certainly been the case in the Fitzroy Valley, the geographical region serviced by the township of Fitzroy Crossing in the West Kimberley. In this region, the number of independent CDEP grantees decreased from 13 in 2000, to four in 2005, all of which are umbrella organisations.[3] While benefiting from the economy of scale that comes with having a larger membership, such organisations are inevitably afflicted with conflicts over authority across subsidiary groups; the position of Chairperson in these kinds of entities can be especially fraught for that reason. It is this kind of organisation I am describing here.

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[1] A number of submissions to the House of Representatives 2004 Inquiry into capacity building in Indigenous communities argued for 'building governance training and monitoring into the design and delivery of every major funding program' (House of Representatives Standing Committee on Aboriginal Affairs 2004: 113).

[2] See, for example Willis (2004: 17), who reviewed the governance training on offer in the Northern Territory (NT) in 2004, and drew the distinction between that which focuses on compliance and conformity to rules, versus that which focuses on decision making and power over future development. She noted a general lack of definition across training packages, which undermined the 'capacity building' exercise across the NT, and contributed to her assessment of it being 'segregated and uncoordinated' (ibid. 18). A 2004 forum on Indigenous corporate governance also calls repeatedly for better evaluation of the effectiveness of training programs on offer (Office of the Registrar of Aboriginal Corporations and Reconciliation Australia 2004).

[3] See also Taylor (2006: 57), who noted that the number of CDEP organisations in the West Kimberley, that is, including the towns of Broome and Derby, had decreased over the last five years, from 17 to eight.

In this chapter, I propose to explore an internal governance review episode that took place in late 2005 at Kurungal Inc. This organisation was itself the result of an earlier amalgamation, and was experiencing considerable tensions. My aim is to demonstrate that there are a range of meanings or interpretations associated with the term 'governance', and that this lack of clarity has implications for organisational change and development, and indeed for Indigenous community empowerment. There are positive and negative elements to this uncertainty. On the negative side, it can result in unrealistic expectations being generated around governance-related exercises such as the one described here. More positively, however, the ambiguity around 'governance capacity building' can act as an open and flexible space, where organisations and communities can address any number of concerns they may have. Because developing 'good governance' has been identified as a priority for many government funders, there are often resources available for these kinds of exercises.

I will begin by providing a brief history of Kurungal Inc, which will explore some of the tensions and limitations that are built into the entity. I then examine the various understandings that contributors to the governance review exercise—including staff, the 'community' and the 'consultant'—brought to it. I also note here my own perceptions of the organisation, which were derived from fieldwork completed in the second half of 2005. In doing so, I demonstrate what it means in practice that there is a lack of consensus around exactly what 'governance' is. In this context, such an openness of meaning proved useful because it allowed local interpretation and prioritisation around concerns as broad as councillor roles, legal responsibilities of incorporated bodies, and forms of respectful communication across the two cultures.

## Kurungal Inc: a brief history

Kurungal Inc is an organisation situated around a group of communities, which are located about 120km to the southeast of Fitzroy Crossing in the central west Kimberley, northwest Western Australia (WA). The organisation is based in a reasonably remote part of Australia and provides specific government funded services to surrounding Indigenous communities. These incorporate the communities of Wangkatjungka, Kupartiya, Ngumpan, Gilly Sharpe, and a seasonally inhabited outstation, Ngarantjadu (see Fig. 13.1).[4]

Kurungal Inc is an umbrella organisation, that is, it has five subsidiary organisations associated with each of these five communities as its members (see Fig. 13.2). The term 'kurungal' itself refers to the country adjacent to Christmas Creek, and incorporates Christmas Creek Station. It was also how the group of

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[4] The organisational membership at this subsidiary level, however, is not strictly based on geographical residency. These groupings relate more to historical and kin connections, with the geographical location being a kind of marker.

people who lived and worked on Christmas Creek Station, prior to the Pastoral Award decision of 1968, became known—the 'kurungal mob'.[5]

Fig. 13.1 West Kimberley region showing Kurungal Inc's communities
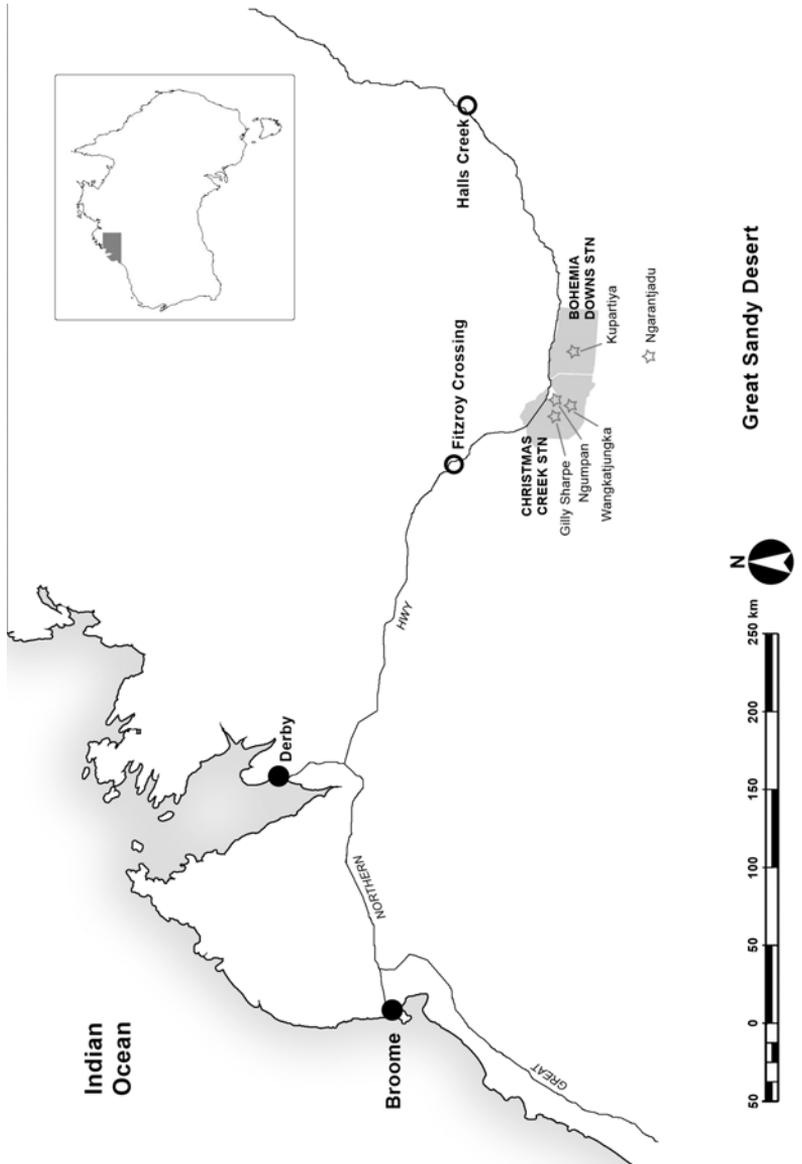
[5] Indeed, the community now named Wangkatjungka was originally named 'Kurungal'; see for example, Davey (1979). See Bunburry (2002) for discussion of the impacts of the Pastoral Award decision throughout the Kimberley and the NT, which meant that Aboriginal station workers had to be paid the same as non-Indigenous workers. In the case of Christmas Creek station, this meant that the station management moved off over 200 people (Commissioner of Native Welfare 1969). The majority moved back over time, to land adjacent to the station boundary.

The five subsidiaries all predate Kurungal Inc, and one of them, Wangkatjungka Community Inc, was one of the earliest organisations to be established in the area. It was set up in 1975 by the Wangkatjungka people who were camping in Fitzroy Crossing at the time, having recently been forced off Christmas Creek Station following the Pastoral Award decision.[6] Wangkatjungka is also by far the largest subsidiary organisation in terms of membership, having around 200 members. The majority of these reside in the community of Wangkatjungka, which is situated on an Aboriginal Lands Trust lease on the boundary fence of Christmas Creek Station. The other four subsidiaries are all substantially smaller. Kupartiya and Ngumpan both have a similar number of members, between 30 and 50, while Gilly Sharpe and Ngarantjadu are much smaller outstations with between 10 and 30 members.

Fig. 13.2 Structure of Kurungal Inc

Many of the residents of Wangkatjungka in particular are members of the Wangkatjungka language group, who began moving out of the Great Sandy Desert along the Canning Stock Route around the time of World War Two (Bolger 1987).[7] Some were still moving into the area from the Great Sandy Desert as late as the 1950s and 1960s. Consequently, they are not in the strict sense 'traditional owners', although some of their descendants have been given, or have acquired, responsibilities relating to the surrounding country. Intermarriage has further blurred the distinctions between language groups. There is a handful of resident

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[6] While the decision itself was taken in 1968, pastoralists in the Kimberley did not have to start enacting it until the following year, and some stations retained significant populations until well into the mid 1970s.
[7] For Wangkatjungka language, see Thieberger (1993), McGregor (1988) and Tindale (1974: 43).

people who have a stronger claim to traditional owner status—that is, those of Walmajerri/Gooniyandi[8] heritage (see McGregor 1988; Thieberger 1993). For the vast majority of Kurungal Inc members, English is their second or third language, after Wangkatjungka, Walmajerri and often others.

Kurungal Inc was established in 2001 under the *Associations Incorporation Act 1987* (WA), at the instigation of Derby-based officers of the Aboriginal and Torres Strait Islander Commission (ATSIC), through which Wangkatjungka Inc had previously received funding. They had a number of motivations for initiating this shift. Foremost, there had allegedly been ongoing problems with non-Indigenous staff residing in Wangkatjungka and being subject to violent acts or assault; the community office had also been vandalised on more than one occasion. The 'problem' as ATSIC saw it was a lack of leadership in Wangkatjungka at the time, which meant that there was little sanction of aberrant behaviour. Strong leadership, however, was evident on the surrounding much smaller communities, including Kupartiya on Bohemia Downs station, which local ATSIC staff at the time considered a much 'quieter' place. There had also been a number of breaches by Wangkatjungka Inc of its funding agreements, although whether these were trivial or not was not made clear to me.[9]

Prior to the creation of Kurungal Inc, the communities of Kupartiya on Bohemia Downs Station and Wangkatjungka had no administrative connection, although they did have strong cultural and historic ties. Prior to 2001, Wangkatjungka Inc had itself been an umbrella, managing the Community Development Employment Projects (CDEP)[10] of Ngumpan and Ngarantjadu, as well as the larger Wangkatjungka community.

The creation of Kurungal Inc saw an important shift occur in the dynamics amongst these geographic and political communities. In particular, the administrative centre (the office) and its associated resources, moved from Wangkatjungka to newly built premises at Kupartiya, some 60km distant on Bohemia Downs Station. The initiation of a new umbrella—Kurungal Inc—represented a significant shift in the balance of power and access to resources between the communities of Wangkatjungka and the much smaller Kupartiya.

The vast majority of Kurungal Inc's business, since its inception in 2001, has related to either managing government monies and providing related services, or attempting to draw in new sources of government funding. At the time of

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[8] Davey (1979) noted that many of the original people from around Christmas Creek had moved east to GoGo Station and Bayulu community.
[9] Organisations such as these can be breached by their government funders for a variety of misdemeanors ranging from the serious to the arguably insignificant.
[10] CDEP monies were the main source of government funding for Kurungal Inc, representing almost 75 per cent in 2005. There was also funding available for a housing officer to manage the maintenance of housing across the communities.

my fieldwork, there was one full-time non-Indigenous staff member, a 'CDEP coordinator'; his partner worked part-time for the organisation between her stints away in New South Wales. They were assisted in the office at Kupartiya by one or two local residents on CDEP 'top-up',[11] performing tasks such as answering phones and cleaning. Part of the role of the coordinator, and a requirement of the funding agreements, was to hold regular meetings of the Kurungal Council, which is the governing body of Kurungal Inc. While the communities of Kupartiya and Ngumpan had shared ownership of a cattle station, Bohemia Downs, and Wangkatjungka had a community store, the organisation of Kurungal Inc did not have any business interests beyond managing funds allocated by government agencies. Its major concern was running a CDEP program for around 80 participants across the five membership groups. However, it also received funding to maintain housing stock, deliver municipal services, and to provide a meals-on-wheels service and other aged care help in Wangkatjungka.

In the context of this discussion around a review of governance, there are a few important things to note:

- the organisation had in-built, imposed tensions and imbalances;
- its only concern was managing government money, so it had limited scope in addressing community priorities beyond those deemed worthy by government;
- the coordinator, apart from the shopkeeper and his wife in Wangkatjungka, was for the most part the only whitefella working directly for these communities;[12]
- the 'office' was 60km away from the 'main' community; this resulted in a limited sense of ownership by that community, and inter-community problems of trust and jealousy; and
- there was an uneven claim across groups to traditional owner status. The majority of members were of 'historical' status,[13] although in this context the distinction was not always totally clear or uncontested.

It is my contention that these historically evolved tensions, which are inherent to this organisation and many others, are crucial to the way in which their governance functions. Gaining an understanding of these historical dynamics can be very difficult, especially when there are shameful 'failures' of previous ventures or entities, which people may not wish to discuss. In the case of

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[11] The work requirements under CDEP were 16 hours per week—generally four hours per day. However, participants could earn more money, known as 'top-up', if they chose to work longer hours.
[12] Sanders (2006: 14–17) has developed the concept of 'isolated managerialism', which was clearly at play at Kurungal Inc.
[13] By 'historical status' I mean that the majority were not people, or descendants of people, who would be clearly considered traditional owners.

Kurungal Inc, a pre-existing subsidiary organisation had been investigated and its assets liquidated by the Office of the Register of Aboriginal Corporations (ORAC) in 2003. This entity was reconstituted under the WA legislation. Such a negative experience may have contributed to the reluctance of certain authority figures to become closely involved in the formal governance structure of Kurungal Inc.

Organisation identifies need for governance review

As part of my doctoral fieldwork on governance, I was granted permission to observe meetings and broader interactions within the organisational environment, including those with outsiders. I was seeking insight into people's relationships to country and to each other, and into people's histories, and how all of these manifest in an organisational context. While I was there, a number of senior community members and the non-Indigenous CDEP coordinator agreed that a review of governance was necessary. It was one of the few occasions when they agreed so wholeheartedly, but probably this was because each had completely different understandings and hopes about what such an exercise might involve. These different understandings incidentally did not arise in a vacuum. Some people had attended 'governance training' in other contexts, such as around station management. Some had been involved in developing cross-cultural training courses for non-Indigenous people, and believed that a governance related exercise might allow them to apply some of this experience to the coordinator. In any case, there was consensus that something had to be done to improve the internal workings of the organisation.[14]

That 'the community'[15] and the staff member had different understandings need not have been problematic, particularly as the review was to be undertaken by a very experienced practitioner who quickly picked up this gap in expectations. The community had ongoing strained relations with the coordinator, although this was not a phenomenon that related only to this particular individual, or this organisation. Indeed such a position—being the only official non-Indigenous employee in a remote community—has always been very difficult, but was perhaps increasingly so in this particular policy climate. The relationship between the community and previous coordinators had also been problematic. Because of Kurungal Inc's history of a high staff turnover rate (generally a new coordinator every year or so since it started), the organisation

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[14] Some six months beforehand, the community had called a big meeting to attempt to clarify the extent of the co-ordinator's authority. However, by the time of the training described here, tensions were again very high.
[15] I shall refer to the 'community' here simply to distinguish the broad constituency from 'the Kurungal Council', and these from the co-ordinator. While 'the community' was rarely a totally coherent entity, in relation to (or opposition to) the co-ordinator, it was often reasonably united. See Holcombe (2005: 228) for a similar observation. The concept of 'community' has been problematised by many, see for example Rowse (1992: 50–8).

did not sit particularly favourably with the local Indigenous Coordination Centre (ICC), through which it received its main sources of Commonwealth funding. It had informally been made clear that it was 'on notice'. To assist Kurungal Inc sort through some of these ongoing issues and to support what the ICC had identified as elements of strong leadership there, they were allocated $15,000 to build governance capacity. The consultant was chosen largely on the basis of a pre-existing relationship that he had with one senior man, having worked together in another 'capacity building' exercise relating to station management.

The review process was to see the consultant spend time with both the staff and 'the community', including community leaders, and to listen to their concerns about the organisation. He was interested as well to understand the formal structure of the organisation and how it had evolved. In doing so, he was seeking to identify whether the tensions were structural ones, interpersonal/intercultural ones, or process-related.

Background to the review: the coordinator's concerns

The coordinator hoped that a review of governance would bring to light the need to improve both councillors' and constituents' understanding of the parameters of his job. This, he hoped, would encourage both groups to temper their expectations accordingly. He also hoped that it would clarify for people '[w]hat Kurungal is, what it is for [and] is trying to achieve'. He hoped such improved understanding would mean the councillors would take more of an active interest in the activities of the organisation. He had had limited success in organising regular council meetings, and was understandably frustrated. He also hoped to use the review process to inform councillors and members more generally about the legally binding nature of the service agreements that they had signed. In other words, he wanted them to understand that government had given the organisation certain monies, and in return the organisation had to demonstrate that agreed objectives were being met. He believed it was important for him to 'go by the book', to ensure that the agreements that were signed with government were strictly adhered to. It is important to note that for him to have taken a less hardline approach, in terms of organisational compliance with various agreements with government, would have jeopardised the organisation's funding and hence its entire existence. He was acutely aware of this. He also strongly believed that 'the community' was in need of 'cross-cultural' training to deepen their comprehension of non-Indigenous cultural systems and values, a rather unusual perspective.[16] He believed that the communities' lack of understanding of the complex structures of

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[16] Martin (2003: 13), however, has made a similar suggestion: 'To be truly effective then, "capacity building" needs to be seen as a particular form of cross-cultural education in which indigenous peoples' enhanced capacity to achieve self-determination through their own institutions provides an important bridgehead to strategic engagement with the institutions (formal and informal) of the wider society'.

'government', or concepts such as 'business', was undermining his role and limiting the communities' potential to positively engage with government programs.

The community's concerns

At the same time, community members and councillors reported finding the coordinator rude and offensive, and described him as too hard, too bossy, and as exercising too much agency *outside* of the bounds of the office. People believed that a governance review might 'pull him up' and make him better understand the limitations of his role. While the coordinator could not understand why people had limited interest in Kurungal Inc since it was *their organisation*, the 'community' considered that it was really more of a *kartiya* [17] thing, something that was *his* responsibility to tend to. From the community perspective, its function was fundamentally as a conduit to resources, and the job of the coordinator was to keep the money story looking good for government so that this would continue.

Members of the community had raised a number of issues about how this particular coordinator carried out his job. Some of these were more sensitive than others, and included a perception that he talked down to women and 'shamed people'.[18] He was also criticised for not properly listening, which related to his inability to pick up on more subtle forms of communication, such as body language in meetings, which indicated that people were not engaged with his statements or were offended by his directive manner. 'Not listening' also related to the problem that his latitude in carrying out community requests or demands was in fact very limited, but he found it difficult to dismiss such requests outright, especially when made in a public meeting.

There was also the perception that he spent too much time out of the office and in the communities, assisting in a 'hands on' way with CDEP work, instead of making sure all of the government 'paperwork' requirements were being dealt with. Obviously, this individual's style departed somewhat from his predecessor's, who had remained more office-bound by comparison. There was also a perception that he did not attend to internal paperwork properly, including that which some people had become accustomed to around meetings: minutes and their follow-up, setting out clear agendas beforehand, following up matters

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[17] '*Kartiya*' (pronounced gardeeya) is the term that is used across the Kimberley and into the NT both for non-Indigenous people and as the adjective for matters pertaining to that world.

[18] See, for example, Myers (1986) on the subject of 'shame'; a very powerful and not neatly translatable concept. To avoid it, Myers (1986: 121) notes that a show of humility on the part of the speaker (the potential 'shamer') is required that indicates 'that he does not think he is better than the others. Similarly, direct contradiction is avoided lest it cause "shame" … by exposing a person's egotism'. Such an indirect and non-hierarchical approach to communication is somewhat diametrically opposed to whitefella preconceptions around being a 'boss', in this example, having to manage 80 CDEP workers and encourage their productivity.

from previous meetings and so forth. Arguably, some members of the community had higher expectations of acceptable governance practice than the coordinator.

Another common criticism of the coordinator was that he was too much of a gatekeeper. He insisted that any contractors, government agencies or service providers who were seeking to do business or talk to any people living in any of the five communities inform him first. He saw this as an important aspect of his role, making sure outsiders had gone through the proper channels—via Kurungal Inc—to engage with these places. The people, however, had a different idea, and resented what they perceived to be his meddling in their business. He was perceived by some as an empire builder, as trying 'to take over everything'.

Finally, his desire to 'play by the book' was perceived by people as being overly inflexible and unimaginative, and demonstrative of his loyalty to 'government side' rather than 'community side'. As one senior woman posed it: 'we got all this *milli milli*, this paper, but then other things can happen, can't they?'[19] What this question encapsulates, it seems to me, is the increasing gap between a community's expectation that such *kartiyas* are there to 'help' them, and the government's expectation that such positions are there to unforgivingly, and with very little latitude or concern for cultural difference, implement policy. Straddling such very different expectations makes a position such as that of the coordinator described here an extremely difficult and uncomfortable one.[20]

My observations

During my time with Kurungal Inc, there were a number of 'community' meetings, generally called by the community, rather than the coordinator, to address issues of concern to them. These meetings were generally attended by dozens of people, including many 'councillors'. The difficulty for the coordinator, who was invited to attend most of these, was perhaps that he made a distinction between these very open ended meetings and a 'council meeting'. And yet from my discussions with people, Kurungal Council meetings had always taken this kind of format. The 'council', as conceived by the coordinator, was too abstracted from the much more inclusive and meaningful sociality expressed in larger meetings. As such, his more strictly delimited notion of the council held little interest for people, and arguably limited legitimacy. Nor did it have precedent. And yet the inefficiency of such big, inclusive meetings, at least when measured in terms of addressing a particular list of agenda items, meant that large

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19   *Milli milli* means, roughly, paperwork. In this context, the woman was referring to the various service agreements, Shared Responsibility Agreements (SRAs) and so forth.

20   One of the reviewers of this chapter commented that most of the communities' concerns recorded here focused on the coordinator, rather than the organisation more broadly. Indeed, it was the case that for whatever reasons, the coordinator was held accountable for all kinds of problems that arguably were beyond his influence. This in itself could be considered as contributing to the overall difficulties around communication between the coordinator and the community.

community meetings were a frustrating kind of vehicle for the coordinator to engage with.

Kurungal Inc's limited legitimacy in part related to the nature of the organisation itself—its genesis and its physical locality—which meant that the majority of members had a very minimal sense of ownership of it, or comprehension of its business. The other interesting thing about the organisation was that those who *had been* elected as councillors did not necessarily have much cultural authority, or much experience in dealing with *kartiyas*. This combination of discomfort and limited authority also translated into a limited engagement with the process of attending meetings for many councillors. In any case, the four community leaders who *did* have both authority and experience with *kartiyas,* formed a group that was named the 'elders group', as a kind of informal advice-giving group. It was from this group that the coordinator in practice sought sanction for his actions.

While the members of this group had no official position in the organisation, their input was crucial in allowing it to continue functioning with a degree of legitimacy, at least as far as the constituency was concerned. Arguably, such legitimacy would not have been garnered from having council meetings of the kind imagined by the coordinator, or indeed demanded in the organisation's rules. Nevertheless, the coordinator remained extremely frustrated at official meetings not occurring, in part because he was required to provide evidence that they were to the ICC. Minutes of meetings and related documents would demonstrate that he had the necessary community sanction for particular decisions.

The 'elders group' gave legitimacy to decisions, and in a sense represented the absolute minimum group required to give approval, not unlike the way a quorum works in a formal governance context. Of course, while decisions they made tended to have *sufficient* authority, they did not have *absolute* authority and were still open to question by others outside of the group. Nevertheless, the influence of this group greatly upset the coordinator's sense of justice and democratic process. But he also wished to understand and respect edicts of the 'cultural side', which he recognised the 'elders group' as signifying. On the one hand, this group, whose role was to provide necessary sanction to the coordinator's actions, further undermined the formal council, and made it even less likely to become a functional, practising entity of any influence. However, it was also true that on the basis of traditional ownership of surrounding country and the strength of one's claims on that front, there were substantial variations in the authority and power of the subsidiaries and their members. The 'elders group' had very strong claims to country, and this was largely the basis of their legitimacy—although they also had considerable experience with *kartiyas*. A

council that ignored these claims, or pretended to generate some kind of authority outside of them, was destined to be symbolic at best, dysfunctional at worst.

The 'elders group' operated as a quorum *in practice* if not in law, and as such, the decisions being implemented by the coordinator managed to avoid intra-community conflict, partly because of a degree of distrust amongst the four, which demanded ongoing transparency. That is, the 'elders group' accounted for the main competing interests. Such an achievement is not insignificant in organisations of this nature. However, this practice—that is, prioritising communication with the 'group that calls the shots'—contributed to the aforementioned criticism within the wider community that the coordinator was not listening to people. It is difficult to argue, however, that he had any choice but to engage with this informal, and yet legitimate, decision making process.

It should be noted that none of the 'elders group', at least prior to the 2005 AGM when two of the four allowed themselves to be elected, had positions on the Kurungal Council. As one elder had stated earlier in the year: 'I don't want no *kartiya* looking over my shoulders'. There was a definite sense in which their engagement with the formal council, in particular via the Chairman's position, was a new attempt to exercise greater control over the coordinator. The irony is that people of influence started to engage with the formal mechanisms of Kurungal Inc not because of the coordinator's efforts, but in spite of them.

The consultant's view

After some discussion between the consultant, the coordinator and a senior community member, it was decided that a review of governance could involve a process by which the breadth of their concerns could be explored. The consultant suggested that some of the negative reaction coming from the community might in fact relate to the particular policy climate, with its very limited flexibility for expenditure, and particular policies such as the much stricter implementation of the CDEP 'no work, no pay' rule, which had come in during this particular coordinator's tenure. He guessed that there might be a general sense of insecurity amongst the membership, and fear about what the future holds and what the government might decide to do next. He also proposed that there was little appreciation of the limits to government largesse, including the fact that Indigenous policy shifts were often driven by mainstream Australian politics and voter perceptions. He thought it would be worthwhile to include in the discussion some of these matters, and explore people's fears about the future.

The consultant spent six days in total in the various communities associated with Kurungal. He spent one and a half days with the coordinator and his partner, working through their identified concerns, one of which was the conduct of a

day long 'cross-cultural workshop' for their benefit. He then spent three days with various families and groups from within the organisation's membership, going bush, spending time on a stock camp and generally canvassing the issues people had with Kurungal.[21] He also spent time with the coordinator in the office, attempting to find all of the documentation relating to Kurungal Inc and its subsidiaries: constitutions, membership lists, rules, titles to land, and so forth. Some of this material could not be found.

Broadly speaking, the consultant concluded that there were major issues of cross-cultural misunderstanding at play, and that these were contributing to other stresses built into the organisation, and to those bearing down from the policy environment.

The review workshop

On the final day, the consultant held a workshop that explored three areas:

1. Working between the two worlds;
2. Understanding the Kurungal governance arrangements; and
3. Identifying solutions.

In the morning, after a handful of cars and the school bus had done the 120km round trip to pick up as many people as possible from the member communities, there was a further surprise. Two consultants and a senior officer from the ICC were waiting at the Kupartiya office to raise with the Kurungal Inc membership the issue of designing new regional governance structures, which could feed into the former ATSIC region of Malarabah. These community consultation sessions were taking place throughout the geographical reach of the Derby ICC. They had apparently provided the coordinator with less than a week's notice of their intended visit. Various governance models were overviewed, and those present were asked to attend another meeting in Fitzroy Crossing for further discussion. The visitors were very impressed at the two dozen or so people who had turned up to attend their discussion, and no one had the heart to tell them that people had gathered together for another purpose that had been much longer in the planning.

That discussion was completed by around 11am, and after morning tea, the workshop began. The first aspect, on the difficulties of working in 'two worlds'[22] —was facilitated by two members of the community who attempted to capture the difficulties on 'both sides' of communicating well with those in another

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[21] The views of the coordinator and of 'the community' above were expressed to me via interviews, both before and after the training took place. I was not privy to the discussions between the consultant and either party, although I did provide some logistic and administrative support to the consultant during his time at Kurungal.
[22] This is the consultant's terminology, not my own.

cultural milieu.[23] The discussion, however, remained very general, with law, culture and country characterising the Indigenous cultural side, and money hoarding behaviour, possessions, governments and skyscrapers characterising non-Indigenous culture.

The second phase of the workshop, about understanding Kurungal Inc governance arrangements, started with the consultant demonstrating the various agreements to which the organisation was party by laying them out on the floor—all 13 of them, which included three Shared Responsibility Agreements (SRAs)[24] and various service agreements. He then went through the various Acts available to become incorporated under, and looked at each subsidiary organisation, asking whether all requisite paperwork was there: rules/constitutions, signed list of members and so forth.[25] He described the difference between an organisation that was a company, one that was incorporated, and how they differ structurally, in terms of reporting responsibilities and also in their capacity to carry out various functions such as holding Aboriginal Lands Trust leases. He also described the various parts of an incorporated body—the board/executive, the members and the staff—and explained how they must relate to each other, and yet remain distinct, for the whole to operate. This part of the workshop was to explain to participants the actual legal structure of Kurungal Inc.

The final aspect of the workshop, 'identifying solutions', essentially focused on how to sort out some of the missing paperwork for the subsidiary organisations, including membership lists. The consultant also raised the possibility of restructuring Kurungal Inc to reflect 'actual leadership and community political behaviour', but there was insufficient time or energy to really generate discussion on the matter, and the workshop came to a close. Everyone headed back to their communities and the consultant left the following day.

Whilst the review had been useful in certain respects, and the missing membership lists were discovered, which was important, the fractured relationship between the coordinator and the community had not been addressed. In truth, a one day workshop had only sufficed to begin exploring aspects of

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[23] Both of these individuals had been involved in presenting cross-cultural training in other contexts, generally to a largely non-Indigenous audience.

[24] SRAs were introduced in 2004 as part of the 'New Arrangements in Indigenous Affairs': 'SRAs will set out clearly what the family, community and government is responsible for contributing to a particular activity, what outcomes are to be achieved, and the agreed milestones to measure success. Under the new approach, groups will need to offer commitments and undertake changes that benefit the community in return for government funding' (Office of Indigenous Policy Coordination 2004: 18). See Arabena (2005) for a critical look at SRAs and at the 'new arrangements' more generally.

[25] Not all of these subsidiary incorporated bodies had been incorporated under the same legislation. In general, the older ones came under the Commonwealth's *Aboriginal Councils and Associations Act 1976*, which requires up-to-date membership lists, and the latter ones, including Kurungal Inc, had come under WA's *Associations Incorporation Act 1987*. The latter allows for incorporated bodies to be members; the Commonwealth Act did not.

'Kurungal Inc' as a *kartiya* and bureaucratic cultural artefact. It had failed to address the meanings, or lack of meanings, attributed to the entity by its membership, and it had not directly touched on the ongoing emotional tension that had come to characterise the organisation. There was much talk amongst community members about getting the consultant to return in 2006 and help resolve the ongoing tensions. This had been one of the original terms of reference of the exercise—that is, to 'Assess the feasibility and viability of a governance development project at Kurungal'. The consultant's report certainly suggested that 'community members consider reforming the current governance arrangements for Kurungal and its affiliated organisations', although it contained no explanation as to why such reform might be necessary. However, by April 2006 the Kurungal Council had terminated the coordinator's contract. As so often occurs though, it took some two months for Kurungal to fill the position, by which time there was a significant backlog of reporting and other requirements, representing further slippage for the organisation to catch up on.

The consultant's report

The consultant's report to Kurungal Inc on the review exercise is interesting in a number of respects. Firstly, the breadth of issues that were raised by people as part of a 'governance review' points to the lack of clarity about exactly what governance is. He records that there were a number of people who raised concerns about the connection between Kurungal Inc and subsidiary organisations, although the exact nature of these concerns is not elaborated in the report. Elsewhere he reports on comments that:

> there was something structural [sic] wrong and that the communities were only living places with little to do and little opportunity to develop something new. Concern was expressed that the CEO [i.e. the coordinator] did not discuss possible solutions rather he already had them and 'just told people'.[26]

This comment alone points to confusion about the role of the organisation and its limits.

The concerns about the relationship between Kurungal Inc and its subsidiary organisations were probably related to the historical disenfranchisement of Wangkatjungka as the administrative hub community for the area in 2001. It would also have related to a lack of clarity around the relationship between Kurungal Inc (the organisation) and Kupartiya/Bohemia Downs stations (where the office was situated). Clearly, there are benefits for a community that 'hosts' the administrative centre and these were apparent to the other communities and community leaders. Many of these relate to the more informal, day-to-day services

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[26] Unpublished consultant's report of the governance review to ORAC.

provided by such organisations (Thorburn 2007: 21). I would suggest that the expressions of concern about the 'governance structure' related more to these (and other) issues around the internal power dynamics of the different communities. Arguably, they also reflected the inevitable problems of transparency that arise when the administrative hub is situated on a community which is 60km away from where the majority reside, and on country where this majority might have diminished rights.

The crux of the issue, it seems to me, is that a community based organisation such as Kurungal Inc can become the focus of a very broad sense of discontent amongst constituents, largely because there is no other avenue available for such sentiments to be expressed. Great care needs to be taken, however, in mistaking the expression of discontent about a whole range of issues with the need to reform the internal governance structure of an organisation. As others have recently argued, the entire system of service delivery to Indigenous communities has become increasingly torturous, and is itself badly in need of reform (see Dodson 2007; Morgan, Disney and Associates Pty Ltd 2006).

In this case, the consultant's report recommended a broader review of the organisation, which included input from various government agencies. It went on to suggest that subject to the outcomes of such a review process, the community ought to consider 'reforming the current governance arrangements'. Arguably, the highly generalised nature of the terms of reference for the review discussed here left the consultant little option but to make highly generalised recommendations, which really did not clarify at all the nature of the problems at hand, or how to rectify them. The adoption of the generalised language of 'governance', in circumstances that are highly locally specific and complex, can contribute to the likelihood of outcomes, which are arguably simplistic at best and difficult to translate into practical or applied solutions.

Finding practical solutions (meeting half way)

In providing such a very site and time specific example of how problems can play out around one organisational entity, this chapter has sought to demonstrate the acute necessity to avoid generality in talk and analysis about Indigenous organisational practice, and for attention to specifics. It also shows that even when all of these specifics are laid out, their resolution might be far from straightforward. That is, identifying 'problem areas' is not difficult. It is likely, however, that certain of these 'problem areas' are themselves solutions to some other imbalance. The 'elders group' is an example. The Kurungal Council had little legitimacy because of the way it had developed historically, and because its main business—implementing government programs—held little interest for people. The formal councillors therefore also lacked authority, and in any case, their decision making scope was similarly limited and of minimal interest. This 'problem' related to the organisation's history (that it was externally imposed

to address other identified 'problems'[27] and was an unpopular attempt to centralise) and to the nature of its affairs (it was fundamentally a service provider, mostly of CDEP, although in a narrowing policy climate).

Nevertheless, despite the limited engagement of the Kurungal Inc constituency, action occurred and decisions were made. The 'elders group' was able to give the necessary direction to the coordinator to implement processes and allocate resources across the five subsidiary groups with a degree of legitimacy. While it was not enough to satisfy all community members, there was no suggestion amongst constituents that a solution to the group's contingent legitimacy was simply to hold regular council meetings.

Somewhat in contrast to this approach, the coordinator was keen to 'go by the book', or at least that was certainly his position in public forums. However, arguably if he had actually attempted this in practice, his position within the organisation would have been terminated much sooner. Attempting to 'go by the book' is probably unwise for either party to a cross-cultural interaction, because generally only one party is privy to the content of 'the book', that is, a set of culturally-specific rules. Rather, careful and steady mutual exploration of workable solutions to the difficult dilemmas that arise might be a better approach. Of course, while compromise does seem desirable and pragmatic, taking this path can open up another Pandora's Box: which organisational rules can be bent, which ones broken, and which must be adhered to? This particular coordinator was accused of being inconsistent, treating some families and communities favourably, and being paternalistic in the way he selectively bent rules, rewarding certain behaviours and punishing others. According to Sanders (2006), such perceptions are entirely to be expected. The trick is in managing them: 'Defending actual material distributions in the language of public purposes is what strategically balancing different accountabilities and perceptions is largely about' (Sanders 2006: 12). Maintaining legitimacy and consensus around correct processes is something that must be constantly worked at.[28] Such ongoing negotiation, however, requires time and resources which are not provided under the service agreements of organisations like Kurungal Inc.

Finally, that this organisation received funding to carry out a governance review relates specifically and primarily to the fact that the ICC had identified a deficit.

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[27] This point, that externally imposed 'governance solutions' may have limited traction, was noted recently in Hunt and Smith (2007: xvi), but was also made back in 1990: 'Organisations that have emerged from within the Aboriginal community and which reflect Aboriginal aspirations and priorities are functioning better than other structures that are imposed by the government' (House of Representatives Standing Committee on Aboriginal Affairs 1990: 162). My understanding is that while there were a number of community meetings held between the member communities of the now Kurungal Inc and ATSIC prior to its creation, there was limited scope for arrangements to be developed outside of those which eventuated.

[28] Sullivan (2006: 27–8) argues that a focus on building appropriate processes, as opposed to structures, is crucial. See also, Sanders (2004: 20–21).

The 'community', however, was arguably seeking help across a number of areas, but had no other avenue available through which to make such a request from an outside, expert party, than via a one-off exercise in governance capacity building such as that which occurred.

Conclusion

This case study demonstrates that the language of governance can open a space and draw in resources that allow time and consideration of a range of issues. Arguably, the resolution of these, which include the dynamics of operating within an intercultural environment, as well as ongoing policy shifts, is likely to not be an endpoint but rather an ongoing process.

And yet there remain questions around whether the promise that a focus on 'governance' holds out can actually be realised. In this example, each party hoped that through a 'governance review' they might better communicate their expectations of each other in a process that was considered somehow neutral ground. In this sense, the potential space opened up by the prospect of this review might have been extremely valuable. But the time and resources allocated to the exercise were insufficient, and there was inadequate short term follow-up, which might have built on the momentum begun by the review. As Lange's chapter illustrates (Lange this volume, Chapter 12), ongoing support for organisations—such as that provided by FarmBis to Windidda Aboriginal Corporation—rather than sporadic events such as the exercise described here, is of much greater value. In addition, it is likely that some aspects of organisational governance practice might be less open to compromise or 'capacity building' than others, especially given the climate of diminishing trust between these organisations and governments. That is, the costs in accepting the 'help' offered by governments, particularly in terms of loss of autonomy and pressure for particular outcomes, is for many starting to outweigh the benefits. The crucial role such organisations have played in the past as cultural and political mediators may be in the process of changing so fundamentally that before long, those that survive may no longer be characterisable as 'Indigenous' in any meaningful way.

Acknowledgements

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