An evaluation of the Kimberley Aboriginal Law and Culture Centre (KALACC) Cultural Governance Programme 2013-2015

Repatriation of sacred objects and ancestral remains to the Ardyaloon (One Arm Point) Community

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Executive summary

Many development workers, in the Aboriginal context and world-wide, emphasise the importance of good process. If the process is incorrect from a community perspective, a programme or facility can be delivered in the short term but it will not meet its objects for very long. Good process should be as much a measurable deliverable goal for a social programme as the end result. In the case of this repatriation impeccable process has been followed.

KALACC has always been capable of knowing the correct people to approach for culturally sensitive repatriation throughout the Kimberley. In many cases it will be someone already on the KALACC Board of Directors. In this case KALACC picked up a programme begun several years previously by a Bardi elder - previous Board member and consistently active member of KALACC since its beginnings, Paul Sampi. The KALACC CEO and Cultural Heritage and Reparations Office, Neil Carter, diplomatically and appropriately allowed time for Mr Sampi and other elders to progress the process in their own way. When it hit a roadblock, for example in the lack of a safe storage facility, and then in its safe location, KALACC was available to step in and assist. This shows great skill on the part of KALACC to appropriately facilitate, rather than attempt to drive, community-generated processes of cultural governance.

Where necessary KALACC acted as intermediary for more formal organisations. Notable among these is the Ardyaloon administrative office. This was an important point of contact for KALACC for reasons of both practice and policy. KALACC has been operating in the Kimberley long enough to have absorbed the importance of dealing with representative individuals and organisations, so-called ‘gatekeepers’, into its daily practice without difficulty. In the case of Ardyaloon this was made easier as the present CEO is an ex-Coordinator of KALACC. In any case, KALACC observes the simple courtesy of involving the community office.

Similarly KALACC worked cooperatively with the WA Museum and, where necessary, other service providers such as the independent NGO Kullari. This diplomatic facilitation and support, rather than intrusive programme delivery, distinguishes KALACC as an organisation that knows how to do business in the Kimberley. Indeed, it acts as a model for others.

Through its Cultural Heritage and Reparations Officer, Neil Carter, KALACC has shown the ability to provide a skilled worker on the ground as needed. The wide expanse of the Kimberley, about 1000kms by road from one end to the other, is a challenge for people from more densely settled areas of Australia. Local people such as Mr Carter commonly travel long distances for just a day or two’s work and this is a requirement if widely dispersed communities are to have the hands-on assistance that they value. KALACC provides exemplary on-demand service in an environment that most governmental and professional organisations find too challenging.

In summary, this evaluation finds that KALACC has provided a good practical service in repatriating cultural material and has done this in a way that supports and strengthens cultural governance.
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Introduction

In June 2013 the Directors of the Kimberley Aboriginal Law and Culture Centre signed an agreement with Woodside to receive funding for its cultural governance programme. KALACC reported on progress in June 2014 and a subsequent agreement was signed. Shortly following the first agreement KALACC began discussion with the Nulungu Research Institute, University of Notre Dame Australia (UNDA), to conduct an evaluation of its activities under the agreement with Woodside.

The original evaluation was to include the four Council of Australian Government (COAG) Regional Service Delivery (RSD) trial sites of Halls Creek, Fitzroy Crossing, Beagle Bay and Ardyaloon (One Arm Point), where KALACC had been working to support cultural governance in collaboration with elders and senior KALACC staff. The terms of the evaluation were narrowed to KALACC’s support for cultural governance at Ardyaloon community. Specifically, KALACC believes its programme for the repatriation of sacred ceremonial objects from the WA Museum in Perth to the community is the best example of support for good cultural governance.

The second, 2014, agreement with Woodside provided support for KALACC to return ancestral remains to Ardyaloon and nearby Beagle Bay. The process for return of ancestral remains is also an example of KALACC’s support for cultural governance but offers some contrast with the process for sacred ceremonial objects. This evaluation makes some reference to the return of ancestral remains also.

This evaluation report will firstly consider the background to KALACC and its role as the key Kimberley organisation supporting the survival of traditional Aboriginal cultural practice. It then outlines the terms of cultural governance and its relationship to community governance and community services.

The report then examines the process of return of sacred ceremonial objects that are considered highly secret and dangerous, as an example of the operation of cultural governance at Ardyaloon, supported by KALACC. Local testimony is used in this part of the report.

The report concludes with consideration of KALACC’s performance against key criteria considered important in fostering sound cultural governance in the present context. These are: insisting on correct process for carrying out sensitive activities such as repatriation that supports existing cultural governance in a community; the ability to identify and deal respectfully with cultural leaders; the ability to skilfully broker the engagement of outside parties and organisations in support of cultural governance activities, and to monitor and guide these; as required, to deliver on-the-ground support to cultural leaders and shepherd practical outcomes. The Conclusion of this evaluation finds that KALACC has performed these functions in an exemplary manner that should be a model for other agencies.

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1 Ardyaloon is the term for one of the four directional groupings that make up Bardi/Jawi society. The community that was established at One Arm Point following relocation from Sunday Island mission has tended increasingly to use this traditional term both for the residential community and for its administrative organisation. The terms Ardyaloon and One Arm Point are used interchangeably throughout this report.

2 Ancestral remains were finally successfully returned to the Ardyaloon Community on November 20, 2015.
Background – KALACC and cultural governance

KALACC origins and institutional landscape

KALACC was formally brought into being with a grant from the Aboriginal Arts Board in 1985, but its roots lie in the struggle for Aboriginal rights in the Kimberley in the days of conflict and distrust with the mining sector, exemplified by the dispute at Noonkanbah in 1978. This was one of the motivating factors for the formation of KALACC’s partner organisation, the Kimberley Land Council (KLC), as a voluntary association led by cultural elders for the reclamation of traditional lands and protection of sacred heritage.

The Aboriginal Arts Board grant was brokered by the National Aboriginal Conference (NAC) delegate for the West Kimberley, Peter Yu, using the staff of his Broome office.³ Yu was also a member of the Executive Council of the KLC under the Chairmanship of John Watson. The KLC’s struggle for Aboriginal recognition since its inception in 1978 had suffered a deep setback with the failure of the Seaman Aboriginal Land Inquiry in 1984.

Throughout these years of conflict the Aboriginal elders who were the backbone of the KLC, and their spokespeople in the KLC Executive, developed a vision for a core alliance of three cultural organisations that could drive Aboriginal cultural maintenance independent of government. As the door closed on the Land Inquiry another, more sustainable, passage to a strong cultural future opened. The establishment of the Kimberley Language Resource Centre (KLRC) and KALACC in partnership with the KLC has endured for thirty years, despite changes in government policy.

It was Yu’s vision that each were to have their own field of support for traditional culture and each were to work in cooperation with the other. Originally based in Broome, KALACC moved to Fitzroy Crossing because of its strong cultural base and more central position. KALACC’s mission when instigated was to ‘assist and promote the ceremonies, songs and dance of Kimberley Aboriginal people, to encourage and strengthen their social, cultural and legal values and ensure their traditions a place in Australian society,’⁴ which it continues to do through supporting and promoting the cultural activities and law business. The KLRC was also funded and established through his NAC office in the same period. It was on Yu’s insistence that KALACC was based in Fitzroy Crossing and the KLRC in Halls Creek. With the KLC headquartered in Derby and represented in Kununurra the network thus had a de-centred regional spread close to most of the Aboriginal groups in the region.

Thus, KALACC was created by Kimberley Traditional Owners to be ‘the primary focal point for Kimberley Aboriginal law and cultural activities, information, support and advocacy.’⁵

³ One of the author’s of this report, Sullivan, was directly involved in these events. He was the first coordinator of the Kimberley Language Resource Centre, also operating from Yu’s NAC premises in this period. He has remained in touch with developments at KALACC since, often in his capacity as Senior Anthropologist at the KLC throughout the 1990s. More recently, he conducted an interview on KALACC governance with the Chair and a senior board member of KALACC in 2010, and attended the KLACC/KLRC/KLC AGMs in 2014.
in this land and they treated it according to our Law. All the Law and stories we were taught by the old people. A person’s own country is just like a mother. Important ground alright. That’s why we need to teach everyone the Law for that ground.”
Joe Brown, long-term KALACC Chairman, 1994.6

KALACC has always sought greater public recognition of the importance of and respect for traditional Aboriginal culture, and to ‘strengthen the sustainability of cultural outcomes, particularly through the development of cultural employment opportunities.’7 KALACC is a hands-on community based organisation that operates under clear direction of its board members and chairperson on a daily basis. Being based in Fitzroy Crossing has made it easier to work with Cultural Bosses, living and practicing Law on country, yet its reach is Kimberley wide. Within the support for Law and Culture KALACC is also working to develop cultural economies utilising Indigenous Knowledge across a range of activities including bush-harvest, performance, cultural festivals and Cultural and Natural Resource Management. KALACCS on country activities include;

- The development of artistic cultural performance at the regional, state, national and international level,
- Support for Traditional Law at Law Time and ceremonies throughout the Kimberley,
- Development and delivery of the bi-annual KALACC festival in the Kimberley which coincides with the AGMs of the KLC, KLRC and KALACC and is attended by hundreds of Kimberley Traditional Owners over five days,
- Intergenerational exchange programmes aimed at cultural transmission on country,
- The Yiriman Project, which has been nationally recognised for its role in diverting young people from self-harm and other self-destructive behaviour utilising Cultural Bosses on country to re-engage young people through contemporary Aboriginal culture,
- The schools programme which engages town-based youth in activities on country so as to strengthen cultural boundaries and authority, helping to develop self-esteem and identity in young people,
- The KALACC Youth Culture Camps (Culture and Capability Programme), and of importance to this review,
- The Repatriation Programme that aims to return human remains and other artefacts retrieved from museums and other keeping houses outside of the Kimberley to the rightful Traditional Owners.8

Within these activities, KALACC works to its vision of Cultural Bosses managing Law and culture on a daily basis for education, health, community and cultural governance, self-esteem and the management of country. Although many of the original players have moved on, the KLC/KLRC/KALACC alliance has endured for over thirty years.

**KALACC’s core business in a service delivery paradigm**

KALACC was established in a period when the Commonwealth government supported independent

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community controlled organisations both to deliver important services and to act as a representative form of local governance and instruments of self-determination. These two purposes have always existed in uneasy balance in Aboriginal community organisations, with KALACC’s emphasis tending more towards cultural governance than service delivery in a mainstream sense. With the abolition of the principal Commonwealth support agency, the Aboriginal and Torres Strait Islander Commission (ATSIC), in 2005, most Kimberley community organisations have had to adapt to a new policy environment that emphasises mainstream services in a competitive market place of service providers.

KALACC (like the KLRC) is not well suited to this policy environment. It delivers a unique service with no mainstream equivalent. It also cannot credibly support traditional practice unless it submits to direction by traditional elders, another area of conflict with a competitive service environment driven by government contracts. Consequently, KALACC has tried to perform its core responsibilities by taking advantage of the small amount of room to manoeuvre left with government grant requirements (eg from the previous FAHCSIA) and the somewhat more flexible approach of private benefactors such as Woodside.

Recognition and incorporation of cultural governance in community and wider governance processes was identified in the 2011 Human Rights and Equal Opportunity Social Justice Commissioner’s Report as a crucial element of self-determination for Aboriginal and Torres Strait Islander Peoples. The Australian Government acknowledged and accepted the intrinsic value and role of cultural governance and cultural bosses, particularly in promoting social cohesion. Through the Kimberley Cultural Governance Project, the Federal Government invested in the formal recognition of cultural governance in the Remote Service Delivery locations so that cultural decision making processes are understood and can have a clear place in relationship to broader community governance arrangements. It was acknowledged and understood that the cultural governance models may vary significantly across the Remote Service Delivery locations. KALACC conducted this work between 2012 and 2013. This work continued through 2013 and 2014 with the direct support of Woodside Pty Ltd.

The key objective of the 2013 agreement between Woodside and KALACC, from KALACC’s point of view, was ‘to enable the Organisation to deliver the Cultural Governance Programme to communities across the Kimberley’ (1.2(c)). The success of this was to be measured against six Key Performance Indicators:

- Transportation of a shipping container from Broome to One Arm Point
- Hold an official event to celebrate the achievements of the programme
- 6 ceremonies held during the Term
- Minimum of 400 participants in total attending ceremonies
- 8 Elder council meetings held during the Term
- 60 Elders participating at council meeting

KALACC reported against these KPIs in July 2014. The most important for the purpose of this evaluation was the delivery of the shipping container for the secure storage of sacred objects from Broome to One Arm Point. This activity, which was successfully achieved, was the prerequisite for successful repatriation of sacred objects. The protocols observed during repatriation, which KALACC facilitated, were an example of cultural governance in action, as this evaluation will show. The
presence of the objects now reinstated at Ardyaloon also provides further foundation for the continuation of cultural governance throughout the Bardi/Jawi communities.

In 2014 KALACC signed another agreement with Woodside. The Key Performance Indicators included ‘repatriation of ancestral remains to One Arm Point and Beagle Bay community’. Through the consistent efforts of KALACC’s Cultural Heritage and Reparations Officer, Neil Carter, the repatriation was able to be negotiated. KALACC continued negotiating with and on behalf of Traditional Owners within the protocols of cultural governance identified within this case study, resulting in the successful return of ancestral remains on November 20, 2015.\(^9\) The event was reported widely in the media, including ABC TV’s 7.30 Report and associated regional, state and national radio services, where its significance for the entire community and the Kimberley was acknowledged. Speaking after the ceremony, Neil Carter spoke of the sensitivity and importance for appropriate cultural processes to be observed in returning ancestral remains;

"It is such [a] very sensitive thing, because these are old people that walked our country a long time ago. They had family, they had loved ones, and they were placed in their burial places only to be removed and taken away. These remains travelled further than the people did when they were alive, but now they’re back in their own country. There is both happiness and sadness for the Bardi Jawi people. But the wrong that was done has now been corrected, and so it a process of healing ... now their spirits can rest."\(^10\)

The event was widely anticipated by members of the Ardyaloon community and significant preparations went into ensuring that the return was done within cultural protocols so that no harm would come to the community. Similar precautions were taken with respect to the transportation of the ancestral remains across neighbouring country with appropriate notice being provided to ensure respectful avoidance by Aboriginal community members surrounding the period of the return. The process at Ardyaloon offers a contrasting perspective on cultural governance that involves culturally important, though not secret/sacred, ancestral material. Before examining this case example in detail, it is necessary to understand the wider foundations of cultural governance that underpin cultural, political and social life in the Kimberley that KALACC operates within.

**Cultural governance**

As the network of community-controlled organisations became entrenched in the Kimberley as the only effective means of delivery of services – municipal, health, legal, welfare, artistic and cultural – the Commonwealth government that mostly funded these services began to pay increasing attention to good governance in these organisations. Although most organisations were responsive to the need to train Directors in their responsibilities and managers in their understanding of corporate good practice, there was disquiet that Aboriginal cultural norms were neglected by the imposition of mainstream standards. This critique drew sustenance from the Harvard University

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\(^9\) Sullivan discussed the Beagle Bay repatriation with Neil Carter at length during the period he was negotiating this outcome. He also discussed it with a representative of one of the groups involved.

Kennedy School governance studies in the project on Indian Economic Development (the Harvard Project). These studies emphasized the need for ‘cultural match’ as one of the pre-requisites for good Native American economic development.

In Australia this was often interpreted as the need to import aspects of traditional society into corporate structures. This had its own dangers. It could tend to reproduce gender and age discrimination. It could also institutionalise alternative lines of authority and decision making within the organisation leading to confusion and crossed purposes. There was also a tendency to inappropriately structure boards to reflect such social systems as clans and moieties, making them virtually inoperable as modern institutions.

A closer look at the Harvard Project case studies revealed that they tended to refer to representative structures rather than service organisations as in the Australian case, confusing community governance with organisational management. In any case the successful ones mirrored mainstream American structures, albeit with Native American symbolism. Traditional society is far too complex to be captured by formal corporate structures. Any attempt to do this does no justice to this rich cultural tradition and also results in bad management. Noting the value of cultural match, Dodson and Smith caution viewing cultural governance in romantic or paternalistic terms. Instead, they underline the value and effectiveness of culturally owned structures when realistically supported by good corporate management skills;

‘Cultural match is not simply a matter of importing romanticised views of traditional Indigenous structures or authority, and expecting them to handle economic development decisions, financial accounts and daily business management. Creating a cultural match is more about developing strategic and realistic connections between extant cultural values and standards, and those required by the world of business and administration.’

The central role of cultural governance in supporting positive social outcomes for Indigenous communities was identified by the Human Rights and Equal Opportunity Commission (HREOC) Social Justice Report, 2012. This national examination is discussed in detail below as a means to contextualise KALACC’s approach to supporting cultural governance in the Kimberley.

**Defining cultural governance**

The 2012 Social Justice Report identified ‘governance as a key factor in the realisation of human rights and sustainable development by Aboriginal and Torres Strait Islander peoples.’ More specifically, it identified that ‘effective governance structures lay the foundations so that we govern ourselves in ways that enable and empower, rather than disable and disempower.’ The following sections relate how cultural governance differs from other forms of governance, outlines key findings of significant studies into governance and Indigenous communities, and provides a basic

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11 Dodson and Smith, 2003 4, p 19.
definition of cultural governance from which to review specific initiatives by KALACC to support cultural governance at Ardyaloon.

Having identified governance as a key factor in enhancing outcomes for Aboriginal and Torres Strait Islander peoples, the Social Justice Commissioner highlighted ‘that there are three intricately connected components to effective governance in Aboriginal and Torres Strait Islander communities:

- community governance
- organisational governance
- the governance of governments, and other external influences.’

Community Governance was highlighted as governance that was most strongly related the culture of distinct peoples, or, realistically referred to as cultural governance. Organisational governance incorporates community governance in the running of Aboriginal organisations that fit community priorities while seeking to mediate external governance and political structures. The governance of government, essentially those government structures, policies and instruments that exist external to community and organisational governance, was noted as impacting on community governance through:

- ‘the capacity ( or lack of) and skills of government,
- the administrative burden of government, and,
- ‘the overarching relationship between Aboriginal and Torres Strait Islander peoples and communities and government.’

Culture is defined as an individual or group’s ‘way of being.’ Reconciliation Australia directly links culture and governance defining the role of culture as,

‘a whole system of knowledge, beliefs, ideas, values, powers, laws, rules and meanings that are shared by the members of a society, and together form the foundation for the way they live,’ in which, ‘culture lies at the heart of governance. It informs a group’s rules and values about what is the ‘right way’ of exercising power and governing—and what is the ‘wrong way’. ‘

In the Kimberley, community governance, as defined by the Social Justice Commissioner is more commonly referred to as ‘cultural governance.’

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18 Culture and Governance - Reconciliation Australia https://www.reconciliation.org.au/governance/toolkit/2-0-culture-and-governance 07/12/15
Enablers and constraints of cultural governance

The Harvard Project and the adaptation of this longitudinal study in Australia, the Centre for Aboriginal Economic Policy Research (CAEPR) Indigenous Community Governance Project, both identified ‘cultural match’ (between the structure of community governance and the culture of the peoples by whom and for whom such structures were created), as a central element of successful cultural governance.

The 2012 Social Justice Commissioner Report utilised the work of Hunt and Smith (2005) to identify key factors that enable and constrain cultural governance:

• ‘Indigenous relationships and systems of representation provide the basis for working out organisational structures and processes.
• Legislative, policy and funding frameworks need to adapt to different governance arrangements that are based on local realities. Equally, Indigenous communities need to consider what governance arrangements are likely to enable them to achieve their goals.
• Culturally legitimate representation and leadership requires governance structures to reflect contemporary values and conceptions about the organisation of authority and exercise of leadership.
• Building the capacity of institutions of governance (such as policies, rules and constitutions) increases the effectiveness and legitimacy of community governance arrangements.
• Effective leadership, which enables consensus-making within communities, is critical to developing strong community governance.
• Governance capacity is a fundamental factor to generate sustainable economic development and social outcomes.
• The wider federal, state, regional and community governance environment can either enable or disable the governance of Indigenous communities.
• The criteria for evaluating effective governance is different for Indigenous peoples and governments: Indigenous peoples value internal accountability and communication; governments emphasise ‘upwards’ accountability, financial micro-management and compliance reporting.’

KALACC exhibits all of the identified enablers or cultural governance within its daily functions, and also experiences many of the identified constraints in terms of its relationships with regional, state and national government departments. The key enablers that KALACC exhibits, upon which it was founded and continue to underpin its activities, are evidence of good ‘cultural match’ between its many and varied constituents. This constituency of Kimberley Aboriginal peoples operates across unique and distinct language groups, cultural traditions and cultural blocs, yet operates within a unified ethic of respect for traditional ownership of land, law and culture, and associated rights to make decisions across all aspects of community life.

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Cultural match – community ownership and effective outcomes

The Social Justice Commissioner summed up this ‘best fit’ of governance underpinned by culture and good corporate management as a form of innovation; enabling communities to unburden themselves of the confused overburden of top-down and often confused, if well-meaning programme proliferation, and arms-length governance. The Commissioner described how ‘Aboriginal and Torres Strait Islander organisations with good governance are innovative hybrids which combine the features of the community’s governance culture with the requirements of the governments’ governance culture.’

Key elements of such hybrids included that they;

- ‘are legitimate (and representative if necessary) in the eyes of the community
- have transparent and efficient decision-making and dispute resolution procedures that encompass cultural values and community governance
- are accountable to the people they represent and service as well as to any external, partners, stakeholders and funding providers
- have the capacity to meet the requirements of the law and its funding providers
- facilitate, not obstruct, productive relationships with government and other external stakeholders.’

Based on the work of Hunt (2005), the 2012 Social Justice Commissioner Report and the Harvard Project, cultural governance can be defined as follows;

‘Cultural Governance that is most strongly related the culture of distinct peoples in which Indigenous relationships and systems of representation provide the basis for working out organisational structures and processes. It is underpinned by culturally legitimate representation and leadership and the governance structures also reflect contemporary values and conceptions about the organisation of authority and exercise of leadership.’

This draft definition, whilst very general, is an attempt to simply describe what is often a complex and layered reality founded in rights, obligations, cultural practices, family and group structures and geography. Individual cultural and language groups have very specific forms of cultural governance that will be best described in language, or framed in narratives tied to country. The key issue raised by these studies is that cultural governance is not simply traditional or fixed in the past. It does not sit outside of contemporary times, but is influenced by whatever forms part of the cultures of Aboriginal groups today, as well as the realities experienced in dealing with western or mainstream forms of governance.

Calling for all Australian governments to adhere to a host of relevant articles of the International Declaration of the Rights of Indigenous Peoples (2008), the Social Justice Commissioner provided

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ample evidence as to why Aboriginal and Torres Strait Islanders ‘should’ expect Australian Governments to uphold Indigenous rights to self-determination, free and prior informed consent (to involvement in the design of policies and programmes that affect people’s lives), and the long-standing right of self-determination. However, the Social Justice Commissioner found that it is more common that community organisations and governance structures exist in a state of attrition as they survive generalised competitive programme funding, onerous and inflexible reporting mechanisms and the time consuming over-burden of red-tape that hinders the targeted and timely provision of services involved. The key issue identified by the 2012 Social Justice Commissioner Report of relevance to an evaluation of KALACC’s activities supporting cultural governance, is the effectiveness and ownership of community designed governance, and how Aboriginal governance initiatives differ from many government processes, structures and programmes, in terms of practice, accountability and effectiveness.

This leads us to a consideration of how cultural governance operates in the Kimberley Region and how Aboriginal peoples of the Kimberley have relied on, maintained and developed cultural governance to the present, especially with respect to the work of KALACC. The following section provides an overview of cultural governance in the Kimberley within what are known as cultural blocs. It is not intended to provide a detailed breakdown of the 34 language groups that exist or the complex systems of law and governance that individual cultural blocs engage in. It is provided to understand the wider systems of governance that underpin other tiers of community governance including Prescribed Bodies Corporate, Regional Kimberley Aboriginal Organisations, such as the KLC, KALACC and KLRC, and discrete Aboriginal communities. Overlap between these different categories of organisation in terms of cultural governance is common. KALACCs substantial work in this field working in partnership with other peak Aboriginal organisations, and with government, is also examined.

**Cultural governance in the Kimberley**

Governance has been a key focus for community based organisations for over three decades in the Kimberley. The longevity of peak Kimberley Aboriginal organisations is based on foundations of cultural governance tied to rights and traditions of respective language groups, as well as the requirements of corporate regimes within which they function. The focus on corporate governance of Aboriginal community service delivery organisations has received significant academic, media and political attention during the past 30 years since the rise of Kimberley Aboriginal community controlled organisations from 1978 and the advent of native title with the Mabo Decision in 1992. Throughout this period and continuing in the present, is the issue of effective community control within accommodation of mainstream governance structures, and the role of cultural governance that underpins community aspirations, opportunities and possible transformations.

The Kimberley Aboriginal Caring for Country Plan (2011), which was developed by a partnership

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between KALACC, the KLC, KLRC and Kimberley Aboriginal Pastoralists (KAPI), summarised the basic foundations of culture and cultural governance in the Kimberley;

‘Aboriginal peoples, cultures and languages of the Kimberley are as diverse as the country itself. Traditional Owners closely identify with Country. Indigenous connection to Country occurs through the continued practice of traditional Law and custom, including the use of languages, using proper names for Country, plants and animals, undertaking Law business, observing cultural protocols and the stories and rules that keep the spirit of the Country alive. The Law is all encompassing for men, women and children. Aboriginal Law expresses a relationship with land that is very different from a Kartiya one. It embodies a kinship to Country and the beings and elements that live and have lived within it, as well as the rights and obligations that people have to land and to each other. The obligations to Country, the rights of Traditional Owners over Country, the connection of languages across Country and the kinship of people to lands and waters are the very foundation of Aboriginal society.’

A central concern noted by Traditional Owners in many community consultation processes reviewed for this evaluation is the nature of shifting government policy and programme priorities. Aboriginal peoples of the Kimberley regularly invest large amounts of time and energy in processes that do not prove to have sufficient long-term benefits or respond to Indigenous priorities, experience and cultural governance. Partnerships between Aboriginal organisations, government agencies and non-government organisations are increasingly complex and regional, provide short and medium term benefits, and have the potential for long-term benefits to Aboriginal people of the Kimberley.

Aboriginal organisations are seeking ways to limit reliance on government through sustainable management of Country, and generally through the development of a ‘cultural economy’ based on comparative advantage of Indigenous Intellectual Property, rights to Country and unique cultural heritage. Cultural governance has been identified as a key issue for the successful implementation of these aspirations, forming the foundation of a range of intra-Aboriginal partnerships, business developments and social ventures.

As with the longevity of peak regional Aboriginal organisations in the Kimberley, such as KALACC, their initiatives and programmes have been successful at a community level because they have been initiated within the protocols and processes of cultural governance in the Kimberley. Through investing in the people of the Kimberley and respecting a core principle of ‘right people for right country’, many gains have been made in regard to the development of The Yiriman Project which operates across linked, but diverse language groups, the Repatriation Programme, which is Kimberley wide, and supporting Kimberley Rangers on Country through fee for service work and sound collaborative processes with environmental non-government organisations (ENGOs) and government agencies. However, where projects have been unsuccessful, it has often been based on an inertia that exists in continuing silo approaches to accessing resources, maintaining power structures and avoiding necessary lead time and development of programmes with Aboriginal organisations such as KALACC.

Within the Kimberley, cultural governance is underpinned by the constancy of Indigenous

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relationships to Country, community interaction across language groups and respect for traditional ownership. Aboriginal values, visions, rights and aspirations for Country; the protocols bound in ownership and seniority, of recognised cultural practices and Aboriginal cultural governance, are a daily prioritised cultural and political reality for Kimberley Aboriginal people. Many senior elders and entrusted younger leaders take responsibility for Country in this manner. This leadership, in turn, retains and upholds values bound in relationships with and responsibilities to Country that are a majority accepted form of foundational Aboriginal governance in need of recognition and resources to function appropriately. These processes are crucial to the success of social ventures, social reconstruction and employment development programmes.

Cultural blocs

Cultural blocs represent long standing shared ‘traditions’ across a bloc of language groups. (See Appendix Four). They represent regions of shared culture and law, language, trade and kinship relationships that traverse single language groups. There are five cultural blocs operating across the thirty four languages groups of the Kimberley;

- **The Western Tradition** (incorporating the Dampier peninsular, Yawuru and Broome region);
- **The Northern Tradition** (incorporating the Gibb River Road, Northern Saltwater, and Mitchell Plateau country; the Worrora, Wunnumbal Gambera, Narinyin, Eastern Dambimangari and Southern Balangara bordering Nyikina, Bunuba and Gooniyandi country to the south and east);
- **The Central Tradition** (incorporating the Fitzroy Valley sweeping west through the Wangkatjungka, Walmajarri, Gooniyandi, Bunuba, and Nyikina Mangala language groups);
- **The Eastern Tradition** (flowing west and south from the Ord Valley of the Miriuwung, Gajerrong, Kija, Malngin and Kukutja language groups); and,
- **The Southern Tradition** (connecting the Pilbara with the southern west Kimberley incorporating the Karajarri, Yawuru, Nyikina Mangala, Walmajari, Jaru and Kukutja language groups).

As identified in the Kimberley Aboriginal Caring for Country Plan (2011);

‘Cultural blocs do not equate with the four different landscape types of saltwater, freshwater, desert and rangelands or cattle country. The distinct nature of these landscapes affect how people relate to different types of Country, but not how Law informs rules and practices, for specific Country. When TO’s choose to meet in their cultural blocs, all the right people, for the right place and with the right knowledge about that Country can be consulted and the best solutions reached.’

Within cultural blocs, Traditional Owner groups, or clan groups, also organise into regional or sub-regional groups with specific rights and responsibilities to Country. Law and Culture defines these governance structures. Belonging within family groups will guarantee certain rights and obligations, but it is ultimately the attainment of cultural authority of the practicing of Law that will define those

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with decision making authority, and therefore, leadership roles. Within this cultural governance framework, clan groups, language groups and cultural blocs will maintain adherence to respect for cultural authority with respect to decision making processes linked to specific sites, family groups, gendered roles and responsibilities and rights to negotiate and make decisions on behalf of the group.

Family groups and clan estates form foundations of traditional ownership within language groups within cultural blocs, but also operate interdependently across these larger groups. The breadth of responsibility for an entire Junba or Ilma may traverse a number of related family groups, senior elders and also be divided between men’s and women’s responsibility for certain sites related to specific elements of a story. Cultural authority within this realm is what generates authority in all realms of community life; education, service delivery, economic development, health programmes, housing and infrastructure. Cultural bosses are by the nature of their respected position of responsibility, also community leaders who are required to be included in all key decision making processes with respect to the community.

It is within this cultural landscape that KALACC’s focus on cultural governance is able to achieve significant community outcomes. In no realm is this more relevant that dealing with the deceased remains of ancestors, which is why the Bardi/Jawi Repatriation process best represents the role of cultural governance in resolving uniquely difficult community issues.

**KALACC and cultural governance within the RSD process and Kimberley Futures Forum**

There have been numerous attempts to develop a Kimberley Wide Regional Partnership Agreement since the late 1990s. Between 2007 and 2013 the Kimberley Futures Process (arising from the Kimberley Futures Forum in May 2007 in Fitzroy Crossing), was instigated between the Federal and State Governments and peak Kimberley Aboriginal organisations under a Tripartite Forum which included the KLC, KALACC, and KLRC, and would also expand to include Wunan Inc, Aboriginal Medical Services and other service delivery organisations within Kimberley Futures. The process followed on from the work of the Kimberley Appropriate Economy Round Table (2005), with links back to the foundational Crocodile Hole Meeting of 1991, which remains a core statement of aspiration for Kimberley Traditional Owners for almost 25 years.

‘The purpose of the Kimberley Futures Forum is to develop a Kimberley-wide governance structure that puts Kimberley Aboriginal people in control of decisions that affect us and our communities.’

The key aims of the Kimberley Future Forum are to;

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27 Kimberley Futures Newsletter, February 2007, p 3.
‘to make sure Aboriginal people are part of the talking and decisions that affect their future, with a big focus on regional development and governance arrangements to respond to those developments;

• in partnership with government look at social, cultural and economic programmes and the best ways to deliver community services;

• make sure Aboriginal people are a part of the discussions on how best to deliver social services and economic development in the Kimberley region.’

In consideration of KALACC’s role within this process, and in seeking to uphold cultural governance generally, a key statement made within the Kimberley Futures process, KALACC Directors developed a resolution calling for recognition of cultural authority;

KALACC Resolution Wednesday 26 October 2010

‘We the KALACC Directors in principle:

• Demand that governments must listen to, understand, respect and recognize the role, value and authority of culture bosses in their own right

• Wish for discussions by senior Aboriginal and Torres Strait Islander men and women across Australia to get solid agreement to make this happen

• Call for new, adequate resources to support this process.

For over thirty years we have been calling for Aboriginal empowerment. ‘Now is the time for a new dialogue based on genuine respect for Aboriginal and Torres Strait Islander law, culture and language.’

The KALACC Resolution remains KALACC’s approach to instigating cultural governance within all aspects of its work in the Kimberley.

Within the original RSD process KALACC received direct funding from FHaCSIA (2011 – 2013) and from Woodside Pty Ltd (2013 – 2015), to support cultural governance across the four trial sites. KALACC’s role in supporting cultural governance across the four RSD Trial sites included;

• ‘The identification and documentation of existing key cultural governance structures and models in each of the Remote Service Delivery (RSD) locations or, where necessary and with the confirmed endorsement from community, assist with the development and documentation of cultural governance structures and models.

• Engagement with youth and activities which develop the cultural governance capacity of youth.

• Facilitate the inclusion of representatives from the Kimberley Regional Operations Centre in all meetings and forums, so as to provide Regional Operations Centre/Local Operations Centre staff with the opportunity to engage community members in the development and implementation of governance models and leadership opportunities for each of the RSD locations.

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28 Kimberley Futures Newsletter, February 2007, p 3.
29 Kimberley Futures Newsletter, February 2007, p 5.
• Assist the Regional Operations Centre/Local Operations Centres to arrange meetings/forums to discuss issues related to, among other things, the development and implementation of governance models and leadership opportunities, paying particular attention to the identified community priorities expressed in the Local Implementation Plans for each of the RSD locations.
• Provide advice to the Kimberley Regional Operations centre and/or Local Operations Centres on the most culturally appropriate protocols to engage the relevant stakeholders in meetings/forums.
• Assist with the clear identification and definition of cultural governance arrangements in each of the RSD locations such that external stakeholders can be confident of following locally agreed cultural governance protocols.
• Identification of community members who may be engaged on a fee for service basis to assist government with culturally appropriate consultation and engagement.
• On an as needs basis, facilitate the involvement of cultural bosses / cultural governance arrangements in the resolution of intra and/or inter familial disputes.  

The scope of works within this programme has been significant. Working within the RSD portfolio of Governance and Leadership, KALACC refocused this area to support cultural governance in accordance with the wishes of Cultural Bosses. Although operating across a wide front, the process resulted in KALACC engaging at the local level through a series of workshops aimed at strengthening cultural governance structures. KALACC’s work supporting cultural governance within the priorities of Cultural Bosses across the four RSD sites continued until the end of 2015. The goal was to support strengthened regional governance structures engaging with state and federal governments to ensure better design and implementation of service delivery and ultimately, sustainable outcomes for the peoples of these regions.

KALACC’s work at the regional level was tied to FaHCSIA’s work at the national level, which involved developing an Indigenous Leadership and Governance Framework based on work taking place at the RSD sites. KALACC provided significant input in to that process. In addition to this wider work, Reconciliation Australia has re-launched its Indigenous Governance Online Toolkit and that site focuses on the work of KALACC and of KALACC’s Yiriman project.

At the State level, KALACC has been a keen participant in the work of the Indigenous Implementation Board and has supported its calls for investment in regional governance structures, more specifically, in the Kimberley. The Indigenous Implementation Board included a number of key Kimberley Aboriginal leaders and identified cultural governance as a key element of sustainable livelihoods for Indigenous communities. Regardless, the Indigenous Implementation Board’s reports have not been implemented in any significant way, and while this advice mirrors that of KALACC and other partners in supporting collective regional governance structures to enable individuals, it is currently unlikely to impact significantly on immediate efforts to realise cultural governance in the Kimberley.

31 The Yiriman Project
Reconciliation Australia – Indigenous Governance Toolkit
07/12/15
Key aims of KALACC’s continuing work on cultural governance under Woodside’s funding included:

- ‘Enhance ceremonial activities and to thereby strengthen the traditional foundations for cultural governance;
- Finalise the development of the Bardi Jawi Keeping Place, and thereby enhance the cultural governance foundations at the top of the Dampier Peninsular;
- Trial the implementation of Elders Reference Groups, drawing on the earlier work of KALACC as funded by FaHCSIA. Through these trials explore the validity and efficacy of models of cultural governance as developed by KALACC, and,
- Evaluate the effectiveness of this work in enhancing cultural governance in the region.’

The Regional Partnership Agreement

KALACC’s work across the Cultural Governance Leadership Programme and its involvement in the Fitzroy Futures Forum process included negotiations toward a Regional Partnership Agreement through the Kimberley Regional Partnership Working Group. With respect to cultural governance, in June 2013 the Kimberley Regional Partnership Group agreed;

‘that Culture, Language, Land and Identity are the guiding principles that underpin the function and mandate of the agreement and all activity and target areas are to be viewed through this frame of reference for the overall enhancement of Kimberley Aboriginal culture, language, land and identity.’

KALACC has remained directly engaged in this process and continues to be involved in the latest potential outcome of the Kimberley Futures Process, the development of the Empowered Communities Model being overseen by ARNJA. This regional activity remains underpinned by KALACCs support for cultural governance at the community level. Within the changing landscape of governance evidenced by the growth of Native Title Representative Prescribed Bodies Corporate (PBCs), KALACC has maintained a focus on cultural governance, founded in Law and Culture supporting native title rights and interests in the Kimberley. With respect to the Repatriation Programme and the return of artefacts and ancestral remains to Ardyaloon, this has included working with the Bardi/Jawi PBC, which has undertaken its own review of cultural governance and decision making processes. KALACC’s work supporting cultural governance followed on from this review and worked to strengthen the outcomes of this process.

Cultural governance and the Bardi/Jawi PBC

The Bardi/Jawi Governance Project was a joint initiative of the Bardi/Jawi PBC and the three community councils – Ardyaloon, Djarindjin and Lombadina. The project was supported by the Kimberley Land Council (KLC) and the FaHCSIA Remote Service Delivery (RSD) Program. The project received funding from the Remote Service Delivery Special Account (FaHCSIA) and aimed to

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32 Implementation Plan for KALACC Funding Agreement with Woodside Energy Limited, Cultural Governance in the Kimberley, p 2.

33 Kimberley Regional Partnership (RPA) Working Group Minutes, June 2013, Agenda Item 2.1, p 2

34 Empowered Communities….Arnja.
achieve outcomes identified as part of the Local Implementation Plan (LIP). The LIP for the Bardi Jawi area included this project as its first priority under the Governance and Leadership Building Block. Following the initial workshop, participants requested a series of future workshops focused on:

1. Cultural Governance
2. Land Use Planning – Outstations, Leases, Land Tenure and Community Layout Plans
3. Corporate Governance and Policy Making
4. Land Tenure Reform.

In early May 2011, the FaHCSIA Local Area Coordinator held individual meetings with the three community councils and the KLC held a meeting with the Bardi Jawi PBC to talk about the concerns members had with current decision making processes, future planning for Bardi Jawi country and what people want to achieve out of this project. All agreed that there was:

- A lack of clarity about who makes decisions and about what;
- Confusion about what the roles and responsibilities of the PBC and Community Councils;
- Lack of coordination or collaboration for future planning in Bardi Jawi country; and
- A need for better communication between the community councils and the PBC.

A series of workshops were held between 2011 and 2012 that sought to address the communities concerns regarding untangling the various governance structures that had entwined Ardyaloon. Project outcomes included a plan;

‘to provide a process that allows for the Bardi Jawi society to plan for, own and manage their traditional country through the following steps (in no order):

1. **LAND MANAGEMENT AND OWNERSHIP:**
   1.1 **Finalise visitor’s guide pamphlet** – to provide current information to visitors coming to Bardi and Jawi country about who we are, where to go and not go and what to do and not do in our country. Distribute to all community offices and tourism bureaus;
   1.2 **Access Management Plan** – create an integrated culturally appropriate access management plan;
   1.3 **Land Use Plan** – create a culturally appropriate land use plan – looking in particular at: community areas, outstations, no-go zones, tourism nodes, conservation areas (IPA), economic development areas; and
   1.4 **ALT Land Divestment** – divest ALT lands.

2. **BARDI JAWI CORPORATE & CULTURAL GOVERNANCE:**
   2.1 **Governance Project #2** – the second phase of the Bardi Jawi Governance Project to review and implement the MOU.
   2.2 **Cultural Mapping** – to record the culturally significant values of Bardi Jawi country (including traditional law and customs) to enhance Bardi Jawi cultural governance.

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35 Bardi Jawi Governance Project Newsletter, No 1, KLC, June 2011, p 1.
36 Bardi Jawi Governance Project Newsletter, No 1, KLC, June 2011, p 2.
37 Bardi Jawi Governance Project Newsletter, No 1, KLC, June 2011, p 2.
38 Bardi Jawi Governance Project Outcomes, pers. Com. Tiffany Labuc-Garstone, Senior Native Title Project Officer, KLC, 07/12/15.
The Woodside funded cultural governance programme responded directly to the above community priorities aimed to support corporate and cultural governance. Operating within KALACC’s mandate to support traditional Law and Culture through supporting cultural activities, the focus on negotiating the return of ancestral remains enabled elders to exercise cultural authority within a Bardi/ Jawi cultural framework. Instead of the usual processes whereby cultural governance is seen as the support act to corporate governance, the Woodside funded project enabled KALACC to work within culturally defined protocols of a Bardi/Jawi cultural framework, resulting in the successful return of ancestral remains.

Concluding points

This leads to an understanding that cultural governance should largely operate in informal traditional systems outside formally incorporated organisations, but it should be linked to these in a process of constant cross-reference between the two. Intermediary cultural organisations such as KALACC perform a useful role here. Formal organisations may, and indeed should, reflect Aboriginal norms and practices as far as possible in the daily work environment, as well as incorporate congenial Aboriginal symbols, but these must never distract from the primary need for good management to produce desired outcomes for community clients. Community governance, on the other hand, should comprise both administrative efficiency and the sum of informal traditional authority that comprises the common will.39

The repatriation of ceremonial objects to Ardyaloon community that is the subject of this evaluation clearly shows that these principles have been absorbed by the organisations and individuals at One Arm Point in their daily practice. The repatriation is an excellent case history of good cultural governance in alliance with responsive organisational management from the administration office at Ardyaloon (under the guidance of Chair Peter Hunter and CEO Dean Gooda) and other service organisations with active programmes at One Arm Point.

The repatriation

Cultural sensitivity and the need for strict protocols

This repatriation required a strong cohesive group of senior law men (leaders of ceremony and holders of advanced ritual knowledge) and their supporters in the middle rank of ceremonial ‘workers’. Without this the process would have irretrievably bogged down in fear and recrimination. This is because of the extreme sensitivity of the ritual objects involved.

These inscribed wooden boards were removed from Bardi/Jawi custody in the days when they felt they had little control over the actions of outsiders. The objects had previously been a central part of initiation ceremonies. The boards tell stories of the secret aspect of mythic beings’ travels through the land, and hint by means of the inscribed symbols at secret rituals that the community is required to conduct to celebrate the mythic ancestor. They are considered to be handed down from the

mythic being and in this sense to be part of him, and thereby ineluctably linked to the land created
during the mythic ancestor’s wanderings.

These objects are not simply secret - they are considered to be extremely dangerous. Only men
initiated into the knowledge represented on the objects can view them. Retribution for breaching
this law can be severe, even including death. This is not the only danger associated with the objects.
Secret/sacred ritual taps into the unpredictable power of the creative period known in English as the
Dreamtime. This power saturates everything involved in the ritual including the ceremonial ground
itself and the inscribed boards revealed during the ceremony. If this power is not handled in the
correct manner, prescribed by the ancestors, it can spread out into the community causing sickness
and other disasters such as extreme violence and road accidents. It is the responsibility of senior law
bosses to activate the power for the benefit of the community while controlling it through correct
practice. Discussing and arriving at consensus on correct practice, assisted by KALACC, was the
underlying governance task of this repatriation, accounting for some of the delays. Its successful
conclusion is an indication of the continuing social and cultural health of the Ardyaloon community.

Community benefit

Irene Davey, a senior woman of the community, speaks for the general population of the community
when she says this repatriation is ‘scary stuff’ 40. She speaks for the other women when she says
they ‘don’t want to know what’s there [in the shipping container]’ and ‘I wouldn’t want to go close
to that place, even though we used to walk through there to go fishing, it’s now out of bounds’.41
Although she says ‘we rely on men to talk for men’s Law and we respect what they say’ she also
points out the wider community benefit of this repatriation. She says it is important that culture is
passed on to keep up the strength of the community, ‘we are spiritually stronger as long as we
respect those objects’ and they will protect the community as long as they are respected.42

On the night of the final leg of repatriation from Broome to One Arm Point Irene describes the
process from the standpoint of community members: ‘We were told not to move around the
community that night. The men went everywhere, house to house, and told everyone. It was a very
quiet night because everybody observed this prohibition. It was a very good process, not just
because the men showed their authority but also because the people showed respect for something
precious to us’.43 She says ‘we are lucky to have strong young men to re-assure us [in the
community] and protect us from harm from these objects’44. Here she is referring to the role of her
son Russell ‘Wazi’ Davey and others of his peer group who were essential workers in the safe
repatriation of the objects observing protocols that protected the community, reinforcing the

40 Notebooks 17/06/15:1.Following this interview Mrs Davey offered to convene a meeting of senior women to
go over what she told this researcher so that they could either amend or support it. However, the Chair of
Ardyaloon, Peter Hunter, told this researcher that women should not discuss the repatriation unless they were
directed to by the senior men of the community, so further discussion with the women did not go ahead.
These comments of Irene Davey, recorded before this prohibition, confirm the role of women in taking
guidance from men in this culturally sensitive repatriation and are reproduced here to show the positive
impact felt in the community generally by the return of important sacred material.
41 Notebooks 17/06/15:1,2.
42 Notebooks 17/06/15:1.
43 Notebooks 17/06/15:2.
44 Notebooks 17/06/15:1
authority of ritual elders. This was the final stage of a process that began years previously at the Museum of Western Australia.

Cautious beginnings

According to Ross Chadwick of the Department of Anthropology at the WA Museum this repatriation took about fourteen years to achieve, beginning in 1999.\(^45\) It only really gained momentum with the involvement of KALACC from about 2006. This was when the Museum became the central holding point for the repatriation of all WA-sourced Aboriginal material previously held elsewhere, and KALACC became involved in the return of Kimberley skeletal remains to the traditional lands from which they had come.

During the initial visit by Bardi/Jawi elders in 1999 sacred objects were put aside for return, but this could not be followed through immediately because of community concerns about the safe-keeping of the objects once returned. From the Museum’s point of view, as Ross Chadwick explained it, the material had little value as it could not be displayed or referenced in publications due to its extreme cultural sensitivity. In any case, Museum personnel felt it was more appropriately held by the communities from which it came. However, the Museum was unable to take further responsibility once the sacred objects had left its control.

When KALACC entered the picture in 2006, initially approached about skeletal remains, the Coordinator, Wes Morris, expressed great frustration at proposals to leave KALACC with the responsibility of final repatriation throughout the Kimberley, but without any funding to do this important task. This was the situation until KALACC was able to form a relationship with Woodside that involved provision of a shipping container for One Arm Point. Ross Chadwick recalls that it took about two years more, following KALACC’s successful sourcing of a shipping container for storage, before the actual repatriation could be achieved. Part of the delay arose out of negotiations over the safety of the site for the shipping container.\(^46\)

At this point Ross Chadwick recounted the story of the injured nurse at One Arm Point as an example of the situation the community wanted to avoid. Irene Davey and her son Wazi separately recounted this story and it is common among a wide range of people. It is worth recounting here as an example of the complex cultural issues Bardi/Jawi elders must be aware of when dealing with external non-Indigenous people and their needs.

In the 1980s a nurse worked at One Arm Point. She was well liked and responsive to the cultural practices of the community. Though she was aware of the need to avoid the ground near the community where initiation ceremonies were conducted one day she rode her horse through it. Nobody knows why, though people speculate that perhaps the horse bolted or she just became confused about where the horse had taken her. In any event she became paralysed and lost her voice. She may have suffered a stroke. She returned to the community but was only able to communicate by means of signs. Most community members that knew her feel sorry for her. It shows what happens if you break the Law, even unintentionally.

\(^{45}\) Notebooks 15/06/15:1-3
\(^{46}\) Notebooks 15/06/15:2.
Ross Chadwick continued to outline the process as it was observed from his position at the Museum. He noted that delays occurred because of the disjuncture between the community imperative for serious thought and discussion among senior elders, which can take considerable time, and government-generated funding cycles. When one was ready to advance the process the other was no longer available, and vice versa.  

It is important to bear in mind that the elders were confronted with a situation that had no clear traditional precedent. Since pre-colonial times some Aboriginal groups had passed on ceremonial objects to neighbours along with the responsibility to conduct the associated ceremony. Apart from these occasions objects were usually only moved in the context of initiation ceremonies. The protocols for their transport were strict. It was by reference to these traditional protocols that the elders discussed the safe return of these dangerous objects from Perth.

Following an initial visit to the Museum by senior elders, including Paul Sampi and Aubrey Tigan, in 1999 the objects identified as Bardi/Jawi were put aside. Communication with the community following this was sporadic. When KALACC advised that a container had been obtained and installed at One Arm Point another delegation led by Frank Davey visited the Museum. They observed that the objects had been separated and packed correctly.

The provision of the safe keeping-place at Ardyaloon allowed the Museum to engage with the process of repatriation with confidence. KALACC’s Cultural Heritage and Reparations Officer, Neil Carter, was essential to this. To deal with KALACC’s difficulties with assigning Neil to this particular task, because of KALACC’s restrictive grant conditions, the Museum took him on as a casual worker for the duration. Mr Carter booked flights and accommodation for the delegations, and freight for the return of the objects, using KALACC’s facilities, and these costs were reimbursed by the Museum following invoice. This was thus a highly cooperative activity between the community elders, KALACC, and the Museum of WA. It serves as a model for working in a sensitive cultural environment and depending greatly on the character and expertise of both Mr Carter and Mr Chadwick.

The delegation flew back to Broome to assist in making preparation for receiving and transporting the objects on a Sunday. The objects were loaded onto a separate plane on the Monday. Ross Chadwick felt that this may have been for practical reasons. On the KALACC and Bardi/Jawi side it is explained as a part of the protocol of repatriation. It was inappropriate for these men to escort the objects. That was the role of the elders waiting in Broome. Here Neil Carter and community members take over the narrative.

**Cultural governance in the safe return of ceremonial objects**

The community, and indeed the region, had been prepared in advance for the impending passage on public roads of dangerous cultural material. Aboriginal communities had been advised through informal networks activated by KALACC. As well, Wazi Davey recalls ‘we put the word out through our families, our community contacts, and through the Ranger workers – stay off the road, stay in doors’. At Ardyaloon the normal business of community service organisations was suspended as a precaution. The Kullari Remote Jobs in Communities programme provider closed the office for the

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47 Notebooks 15/06/15:3  
48 Notebooks Wazi Davey 23/06/15:2
day on the advice of the Broome-based CEO, who had been informed of the impending movement of the sacred material.\textsuperscript{49} The Ardyaloon community office acted as a point of contact for liaison with the elders in Broome. KALACC fielded telephone calls from the nearby town of Derby asking when it would be safe to use the road.

As outlined above, responsible men of the community moved from house to house advising people to stay indoors. Universal acceptance of the appropriateness and effectiveness of this approach, reported to the researcher for this evaluation, is a clear example of the legitimate power of traditional authority being exercised in cooperation with the more formal and incorporated forms of organization that are usually the only ones visible in a community.

At Broome airport the usual freight handler, a male, had taken sick, and appropriate ‘hands off’ supervision of the unloading was negotiated with the female staff member that took his place. The repatriation took place at night. According to Wazi Davey the correct process was dictated by the senior law men of the community. It had some parallels with the way that the community is prepared during initiation ceremonies ‘when we are holding law we let everyone know, including the teachers in the community and other white people. Their movements are restricted. We put up a sign on the road to stop people travelling because the men [participating in ceremony] must cross that road and no-one can see the painting on their body. If they are not painted they can cross and anyone can see them. They move at night. When we are holding ceremonies near the beach on the east of the community we close the whole beach’.\textsuperscript{50}

Three vehicles in convoy took the ceremonial objects from Broome airport to Ardyaloon that night. As they approached the community they took the beach road that circles the community rather than driving into it, then deposited the ritual objects safely in the shipping container.

**Ritual objects, cultural governance and relations with Beagle Bay**

At a meeting with ceremonial workers and elders at One Arm point,\textsuperscript{51} convened by KALACC’s Neil Carter to explain this evaluation, the discussion turned at one point to the origins of the returned artefacts. Referring to an aspect of design on some of them the assembled men discussed the possibility that these particular objects originated from Beagle Bay, and if so, what to do with them.

In the mission period the practice of traditional ceremony had died out at Beagle Bay through benign neglect. Following independence in the late 1970s some senior Beagle Bay community members began to express the desire to reinstate traditional Law. Possibly because of the demoralising influence of mission institutionalization, the years since self-management began have been characterised by factionalism, inter-personal conflict, youth despair, and lack of clear community purpose.

The Law that they referred to is the practice of ceremonies, usually including stages of initiation that relate and celebrate the activities of a creative being that travelled down the west coast of the Dampierland peninsula, taking in the Beagle Bay area. Bardi/Jawi people are the principal holders of

\textsuperscript{49} Notebooks 18/06/15:1
\textsuperscript{50} Notebooks Wazi Davey 23/06/15:2-3
\textsuperscript{51} 16/10/2014.
the knowledge and associated rights for this tradition, though it is also practiced by a mixed group, including some Bardi, in Broome. This is done under Bardi auspices. It is not at present practiced between Broome and One Arm Point, as it must have been in the past.

This topic is introduced here to lay the background for understanding the complex responsibilities Bardi/Jawi elders have for the returned objects that may have originated from Beagle Bay in colonial times. Important elements of the discussion at the October 16th meeting mirrored the negotiations over the repatriation from Perth. The cultural custodians were clearly concerned about the future safe-keeping of the objects and safety of Beagle Bay residents. While they tended to agree to the underlying principle that each group should take responsibility for its own ceremonial objects, they also had a greater responsibility to the Law itself and could not approve any action that would result in the loss, destruction, desecration of ceremonial material and subsequent harm to Beagle Bay people. This matter remains under discussion. It is likely that KALACC’s Neil Carter will act as go-between during the performance of his other repatriation work at Beagle Bay when Bardi elders feel ready to advance matters.

The role of Neil Carter – KALACC Cultural Heritage and Reparations Officer

A good deal of KALACC’s success lies in its ability to attract Aboriginal staff with the required mix of skills. Neil Carter is a good example of this. Neil has spent most of his life travelling the Kimberley and has an excellent network of contacts and rare local knowledge of individuals and events. He is held in high regard partly because of his method of work. Mr Carter adopts an old school approach to community work, matching his schedule to the availability of community members. He is often on the road at inconvenient hours, is self-sufficient enough to camp out when necessary, and frequently finds kin or friends to stay with in the communities he visits along the way. There is little distance between him and the clients and members of KALACC and this builds trust.

Adding to this trust is his understanding of cultural protocols surrounding ceremonial objects and human remains. This understanding has been absorbed throughout his life in the same way as KALACC’s membership and is second nature rather than the result of ‘book learning’. Mr Carter’s practical skill is not well matched by administrative abilities, but he is receiving assistance in cataloguing and filing through his participation in an Australian Research Council grant for developing best practice models for repatriation. He is clearly passionate about the importance of reclaiming cultural material and restoring it to the group where it originated. His method of work is remarked on beyond KALACC. Paul Lane, Director of the Kimberley Institute and a man with encyclopaedic knowledge of community issues, remarked to this researcher that Mr Carter’s success can be measured by the lack of criticism that filters back through the grapevine about his activities, which are so fraught with community sensitivity this is a rare achievement indeed.

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52 These observations result from consistent interaction during the life of this project. They were reinforced during a day spent in Mr Carter’s company under a shady tree outside the Ardyaloon office waiting for the members of the meeting just described to return from Lombadina.

Conclusions

Process

Many development workers, in the Aboriginal context and world-wide, emphasise the importance of good process. If the process is incorrect from a community perspective, a programme or facility can be delivered in the short term but it will not meet its objects for very long. Good process should be as much a measurable deliverable goal for a social programme as the end result. In the case of this repatriation impeccable process has been followed.

Dealing with the cultural leaders

KALACC has always been capable of knowing the correct people to approach for culturally sensitive repatriation throughout the Kimberley. In many cases it will be someone already on the KALACC Board of Directors. In this case KALACC picked up a programme begun several years previously by a Bardi elder - previous Board member and consistently active member of KALACC since its beginnings, Paul Sampi. The KALACC CEO and Cultural Heritage and Reparations Officer diplomatically and appropriately allowed time for Mr Sampi and other elders to progress the process in their own way. When it hit a roadblock, for example in the lack of a safe storage facility, and then in its safe location, KALACC was available to step in and assist. This shows great skill on the part of KALACC to appropriately facilitate, rather than attempt to drive, community-generated processes of cultural governance.

Brokering engagement of other agencies

Where necessary KALACC acted as intermediary for more formal organisations. Notable among these is the Ardyaloon administrative office. This was an important point of contact for KALACC for reasons of both practice and policy. KALACC has been operating in the Kimberley long enough to have absorbed the importance of dealing with representative individuals and organisations, so-called ‘gatekeepers’, into its daily practice without difficulty. In the case of Ardyaloon this was made easier as the present CEO is an ex-Coordinator of KALACC. In any case, KALACC observes the simple courtesy of involving the community office. Similarly KALACC worked cooperatively with the WA Museum and, where necessary, other service providers such as the independent NGO Kullari. This diplomatic facilitation and support, rather than intrusive programme delivery, distinguishes KALACC as an organization that knows how to do business in the Kimberley. Indeed, it acts as a model for others.

Provision of on ground support and shepherding outcomes

Through its Cultural Heritage and Reparations Officer, Neil Carter, KALACC has shown the ability to provide a skilled worker on the ground as needed. The wide expanse of the Kimberley, about 1000kms by road from one end to the other, is a challenge for people from more densely settled areas of Australia. Local people such as Mr Carter commonly travel long distances for just a day or two’s work and this is a requirement if widely dispersed communities are to have the hands-on assistance that they value.
KALACC provides exemplary on-demand service in an environment that most governmental and professional organisations find too challenging.

In summary, this evaluation finds that KALACC has provided a good practical service in repatriating cultural material and has done this in a way that supports and strengthens cultural governance.
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Appendices

Appendix One – terms of reference

The Evaluation aimed to answer the following boarder and regionally specific questions in regard to cultural governance;

1) What is cultural governance?
2) How does cultural governance differ from other forms of governance?
3) How does cultural governance exist in the Kimberley?
4) How is cultural governance structured in the Kimberley?
5) What activities are undertaken to support cultural governance in the Kimberley?
6) What collective statements have Traditional Owners expressed regarding cultural governance in the Kimberley?
7) How does cultural governance relate to governance of PBCs in the Kimberley?
8) How does cultural governance support other forms of governance in the Kimberley?
9) What models (proposals) exist that integrate cultural governance, corporate (community) governance, regional governance and mainstream Western government?
10) What are the benefits to the community of supporting cultural governance structures and activities in the Kimberley?

The evaluation has been structured to support the guiding questions identified and agreed through the Human Research Ethics Committee (HREC) process for use in community workshops with Bardi/Jawi community members. The final report refocused the evaluation upon the activities of The Repatriation Programme KALACC engaged in with the Bardi/Jawi Community so as to evaluate cultural governance in action, its impact and value for the community.
Appendix Two – methodology

This Evaluation has used a mixed methods approach with a focus on qualitative data.

An initial site visit was conducted by Bruce Gorring and Anna Dwyer in 2014 to complete a project inception workshop involving KALACC Staff, KALACC Directors, appropriate representatives of the Bardi Jawi Community, and the Nulungu Research Team to ensure a consistent understanding among the respective participants in relation to:

- The project scope, objectives and timing;
- The project methodology, budget and deliverables;
- The information requirements of each stage of the project;
- The arrangements for consulting with appropriate community members with particular reference to process and timing;
- The establishment of timing, protocols and agenda for site visits and consultation in accordance with KALACC’s guidance and advice;
- The involvement of other key stakeholders relevant to the project and arrangements for consulting with them, with particular reference to timing, protocols and process;
- The role and function of each member of the Research Team; and
- Preferred lines of communication, reporting arrangements and nominated points of contact.

Due to difficulties arranging a suitable time appropriate to all parties, separate discussions were held at the community with identified community elders and a presentation was made to KALACC Directors.

Three subsequent site visits were completed; by Patrick Sullivan and Steve Kinnane to complete a formal discussion with the CEO of the Argyaloon Community, and by Patrick Sullivan accompanying KALACC’s Reparations and Cultural Heritage Officer, Neil Carter, in discussions surrounding the Repatriation Programme between March and September 2014. Patrick Sullivan also held informal discussions were also held with members of the Bardi/ Jawi Community at the KALACC Festival, in October, 2014 at Jarlmadangah.

Methods used to collect data for this Evaluation included:
- Interviews with community members
- Reflections from KALACC staff and partners involved in the repatriation programme
- Reports and documentation of the repatriation programme and KALACC’s activities
- Analysis of cultural governance forums and statements in the Kimberley
- Analysis of cultural governance operating in Aboriginal community organisations
- Anecdotal reports from community members and others.

Additional desktop research was undertaken by Steve Kinnane, including a review of literature about cultural governance in the Kimberley.
Appendix Three - ethical clearance

19 November 2013

Mr Bruce Gerring
Nulungu Research Institute
The University of Notre Dame Australia
PO Box 2287
Broome WA 6725

Dear Bruce,

Reference Number: 012134B

Project title: “Evaluation of the cultural governance program undertaken by the Kimberley Aboriginal Law and Culture Centre.”

Your response to the conditions imposed by the university’s Human Research Ethics Committee, has been reviewed and based on the information provided has been assessed as meeting all the requirements as mentioned in the National Statement on Ethical Conduct in Human Research (2007). Therefore, I am pleased to advise that ethical clearance has been granted for this proposed study.

All research projects are approved subject to standard conditions of approval. Please read the attached document for details of these conditions.

On behalf of the Human Research Ethics Committee, I wish you well with your study.

Yours sincerely,

Dr Natalie Giles
Executive Officer, Human Research Ethics Committee
Research Office

cc: A/Prof Lyn Henderson, SRC Chair, Broome Campus.

Appendix Four – Kimberley cultural blocs

Cultural Blocs and Prescribed Bodies Corporate *
The Objects of The University of Notre Dame Australia are:

a) the provision of university education within a context of Catholic faith and values; and

b) the provision of an excellent standard of –
   i) teaching, scholarship and research;
   ii) training for the professions; and
   iii) pastoral care for its students.