

KIMBERLEY ABORIGINAL LAW AND CULTURE CENTRE

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Senator Nigel Scullion

Chair, Senate Inquiry in to Regional and Remote Indigenous Communities

14 September 2009

KALACC Submission to the Senate Inquiry – Cultural Maintenance

Dear Senator Scullion

Many thanks to the Senate Committee for the opportunity of providing testimony to the Committee during the formal hearings held in Fitzroy Crossing. 24 August 2009.

In addition to the verbal testimony provided to the Committee on 24 August, KALACC requests that the Committee consider the following four written submissions from KALACC :

- 11 September 2008 Written Submission regarding government engagement ; cultural heritage and repatriations ; and the West Australian Coroner's report;
- 30 July 2009 Written Submission regarding alcohol management issues;
- 14 September 2009 Written Submission regarding Cultural maintenance [this current document];
- 14 September 2009 Written Submission regarding Governance, Leadership and Government engagement with Indigenous people and organisations in the Kimberley.

On 24 August members of the Committee were provided with hard copies of a written document which acts as an Executive Summary of all four of these submissions and which provided the basis of the verbal testimony provided to the Committee in Fitzroy Crossing.

Please find attached the submission from the Kimberley Aboriginal Law and Culture Centre in relation to the importance of cultural maintenance. You will note that the submission is structured in to four components :

1. Intrinsic reasons for maintaining culture;
2. Extrinsic reasons for maintaining culture (health and well – being);

3. A critique of Government Funding for Cultural Maintenance;

4. Appendices

- Appendix # One: *Soldier's Sympathy Intervenes*, The Australian Newspaper, 22 November 2008
- Appendix # Two: Executive Summary of Martin Preaud's PhD thesis '*COUNTRY, LAW AND CULTURE: ANTHROPOLOGY OF ABORIGINAL NETWORKS FROM THE KIMBERLEY.*'
- Appendix # Three: Speech by LIEUTENANT GENERAL JOHN SANDERSON, AC, CHAIRMAN INDIGENOUS IMPLEMENTATION BOARD

KALACC is the Kimberley region's peak Indigenous Law and Culture organisation and for 24 years has pursued a mission of cultural maintenance. Under the current KALACC Business Plan we seek to fulfil this mission through five strategies, these being :

1. Ceremonial and Traditional Practices (law time);
2. Intergenerational exchange programs;
3. Festivals, tours and performances;
4. Cultural employment;
5. Awareness raising and advocacy.

KALACC's purpose and mission is to maintain a culture that has been continuously practiced for 20, 000 years. In line with this mission we take as the theme for this submission the following comment by Major General Dave Chalmers:

"The most important thing Aboriginal people can do to create a future for themselves is to maintain their culture." The Australian Newspaper, 22 November 2008

Whilst KALACC agrees absolutely with this assertion, we readily appreciate that Governments and indeed Senators may not come so readily to this view. As such, we recognise the need to assert in this document the importance of culture both for its intrinsic reasons but also for its extrinsic social and health benefits.

Regards

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Executive Summary

This submission to the Senate Inquiry in to Regional and Remote Indigenous Communities takes as its theme the following comment by Major General Dave Chalmers:

"The most important thing Aboriginal people can do to create a future for themselves is to maintain their culture." The Australian Newspaper, 22 November 2008

The submission is structured in to four parts :

1. Intrinsic reasons for maintaining culture;
2. Extrinsic reasons for maintaining culture (health and well – being);
3. A critique of Government Funding for Cultural Maintenance;
4. Appendices
 - *Soldier's Sympathy Intervenes*, The Australian Newspaper, 22 November 2008;
 - Executive Summary of Martin Preaud's PhD thesis;
 - Speech by LIEUTENANT GENERAL JOHN SANDERSON, AC, CHAIRMAN
INDIGENOUS IMPLEMENTATION BOARD

The section addressing the intrinsic importance of cultural maintenance addresses the following issues :

- Major General Chalmer's comment and what he meant by that statement;
- United Nations Declaration on the Rights of Indigenous Peoples – as it pertains to cultural maintenance;
- 30 years of Kimberley people speaking up for culture ;
- 20, 000 years of cultural traditions in the Kimberley and the difference between Law and Culture.

The section addressing the extrinsic importance of cultural maintenance addresses the following issues:

- "Indigenous culture should be viewed a potential part of the solution to Indigenous disadvantage in Australia, and not as part of the problem" Michael Dockery, *Culture and Wellbeing*, Curtin Uni 2009;
- Kimberley appropriate economies, sustainable development and culture as a key component of economic development.

The section addressing the critique of Government Funding for Cultural Maintenance addresses the following issues:

- Government statements regarding funding to cultural maintenance for intrinsic and extrinsic purposes ;
- A comparison of those statements with the statements and funding regarding COAG and closing the gap.

Conclusion.

In conclusion it will be shown that for thirty years Kimberley people have been calling on Governments to recognise and support the central importance of cultural maintenance, for intrinsic and extrinsic reasons. State and Commonwealth Governments ponder and bemoan the intractibility of Indigenous disadvantage and invest billions of dollars in to a COAG National Partnership Agreement but far from taking a central role, the role of culture continues to be almost entirely missing from these proposals. In Queensland the role of Culture is being explicitly addressed within the Closing the Gap planning and KALACC will be writing to Commonwealth and WA State Governments calling for a more widespread integration of culture in to Government planning in Western Australia.

Recommendations and Required Actions

1. Government COAG Planning Processes and Culture

That the Commonwealth and Western Australian Governments:

- a. Reverse the absence of culture from their COAG planning processes;
- b. Follow the lead of the Queensland Government and find structures for embedding the recognition of culture in to COAG planning processes ;
- c. Accept and endorse the recommendations from the Western Australian Indigenous Implementation Board and develop Government Indigenous Affairs policies that place cultural considerations at the centre of Government Planning.

2. Government Recognition of Culture

That the Commonwealth and Western Australian Governments:

- a. Reiterate the principles espoused in the United Nations Declaration on the Rights of Indigenous Peoples ;
- b. Affirm and recognise research that indicates that culture is vitally important both for intrinsic reasons, as espoused in the United Nations Declaration, but also for extrinsic reasons of health and well – being.

3. Government Funding of Culture

That the Commonwealth and Western Australian Governments:

- a. Acknowledge that current funding levels for cultural maintenance, language retention, cultural heritage and cultural repatriation are all very inadequate;
- b. Commit to levels of funding that are commensurate with genuine recognition that culture needs to be placed at the centre of the COAG planning processes and is vitally important for intrinsic and extrinsic reasons.

KALACC – The Kimberley Region’s Peak Indigenous Law and Culture Centre

- KALACC is the Kimberley region’s peak Indigenous Law and Culture organisation;
- For 24 years KALACC has pursued a mission of cultural maintenance;
- Office and operations are based in Fitzroy Crossing – centrally located in the Kimberley and servicing the traditional cultural needs of the Kimberley region’s 22 language groups;
- Sister organisations are the Kimberley Land Council, based in Broome, and the Kimberley Language Resource Centre, based in Halls Creek – Combined AGMs and a *Collaborative Working Agreement*;
- Under the current KALACC Business Plan we seek to fulfil this mission through five strategies, these being :
 1. Ceremonial and Traditional Practices (law time);
 2. Intergenerational exchange programs;
 3. Festivals, tours and performances;
 4. Cultural employment;
 5. Awareness raising and advocacy.
- There are 8 objects of Association in the KALACC Constitution, addressing issues such as the five strategies above, but also include the following three objects :
 1. Direct Relief from Poverty and Suffering;
 2. Support for Youth;
 3. Promote Social and Emotional Well Being.

Key Activities

Reflecting the Constitution and the Business Plan, the organisation’s key activities include :

1. Assisting songs and ceremonies, festivals and tours;
2. Managing significant youth projects, such as Yiriman;
3. Provided legal representation to the two Kimberley Coronial Inquest processes; Strongly advocating for a Kimberley Regional Alcohol Management Plan; Strongly advocating for a Kimberley Regional Youth at Risk program based on the Yiriman cultural youth program.

Part One – The Intrinsic Importance of Culture

1. The Most Important Thing Aboriginal People Can Do To Create A Future For Themselves is to Maintain Their Culture

Document Extract/ Copy # 1: Statement by Major General Dave Chalmers, November 2008

‘The most important thing Aboriginal people can do to create a future for themselves is to maintain their culture.’

Soldier's sympathy intervenes

<http://www.theaustralian.news.com.au/story/0,25197,24687206-5013172,00.html>

Paul Toohey | *November 22, 2008* Article from: [The Australian](#)

MAJOR-GENERAL Dave Chalmers is leaving the Northern Territory a profoundly changed man. For the past 18 months he has headed the NT emergency response, mindful of the potent symbolism-- attracting the scorn of some -- of being a senior soldier storming through the Aboriginal north.

Chalmers has never abused that position. Instead, as he heads back to Defence headquarters in Canberra, he finds himself believing that the most important thing Aborigines can do to find their future is to maintain their culture.

"Over time, we as a society have undervalued indigenous culture and in many places it's been lost," he says. "And where it's been lost, people have lost their compass, they've lost their framework of life. It's not being replaced by a mainstream Australian framework, and people are in limbo. We need to be paying a lot more attention to traditional healers and traditional lawmakers, the role they played, and play, in people's lives."

KALACC Comment :

Major General Chalmers was appointed by the Howard Government to oversee and manage the Northern Territory Intervention. After 18 months of fulfilling those duties, he came to the conclusion that cultural maintenance was the most important thing Aborigines can do to find their future. This conclusion may be surprising – perhaps even startling – to some people.

But clearly the General came to the view that people need a compass and a framework for living and in the absence of that compass people are lost and directionless.

The Prime Minister and Premier's at the COAG meeting in Darwin on 03 July collectively wrung their hands and expressed surprise and disappointment at the 'intractability' of Indigenous disadvantage. We feel that they need to hear the conclusions drawn by Major General Chalmers.

In the Kimberley, Aboriginal cultures have been maintained for over 20, 000 years. The colonial experience in the Kimberley is also a recent experience – in living memory for a handful of senior elders. This fact needs to be acknowledged by Government as the single most important factor in engagement with Aboriginal people in the Kimberley.

2. The United Nations Declaration on the Rights of Indigenous Peoples

Document Extract/ Copy # 2:

Media Statement by Minister Macklin, 03 April 2009

Statement on the United Nations Declaration on the Rights of Indigenous Peoples 03/04/2009

www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/un_declaration_03apr09.htm

On 17 September 2007, 143 nations voted in support of the Declaration. Australia was one of four countries that voted against the Declaration. Today, Australia changes its position. Today, Australia gives our support to the Declaration. We do this in the spirit of re-setting the relationship between Indigenous and non-Indigenous Australians and building trust....

Article 1 of the Declaration states: "Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in international law." Entitlement to these rights underpins the important work of the Australian Human Rights Commission. And with solemn reflection on our history and the failed policies of the past, we acknowledge Articles 8 and 10 - I quote:

Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

And I quote again:

Indigenous peoples shall not be forcibly removed from their lands or territories.

Today Australia takes another important step to make sure that the flawed policies of the past will never be re-visited. The Declaration is historic and aspirational.

Today we celebrate the great privilege all Australians have to live alongside the custodians of the oldest continuing cultures in human history. We recognise the right of Indigenous Australians to practise, revitalise and sustain their cultural, religious and spiritual traditions and customs. We celebrate the vital positive contribution of Indigenous culture to Australia. And we honour Indigenous Australians who so generously share their culture, knowledge and traditions. We pay tribute to them, to their ancestors and the generations to come.

In supporting the Declaration, Australia today takes another important step towards re-setting relations between Indigenous and non-Indigenous Australians.

KALACC Comment :

KALACC certainly welcomes the decision of the current Australian Government to join with the International community and to belatedly join the 143 nations which signed this declaration in September 2007. We welcome the affirmation in the declaration of the importance of culture. There are clear commitments in the Minister's Media Statement of 03 April 2009 to never again re-visit the policies of the past that were openly attacks upon culture and cultural maintenance. But we also note the references to the right of Indigenous Australians to practise, revitalise and sustain their cultural, religious and spiritual traditions and customs. If the Government is serious in acknowledging this right then we would see a serious commitment towards assisting Aboriginal Australians to exercise this right. However, the reality is that program funding for cultural maintenance is highly constrained and keystone Indigenous initiatives like COAG barely refer to culture.

3. The United Nations Declaration on the Rights of Indigenous Peoples

Document Extract/ Copy # 3: *Essentials for Social Justice: Land and Culture – Economic*

Development by Tom Calma (Speech at the Department of Environment, Water, Heritage and the Arts NAIDOC Week Celebrations 7 July 2008).

Essentials for Social Justice: Land and Culture – Economic Development by Tom Calma [Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission] (Speech at the Department of Environment, Water, Heritage and the Arts NAIDOC Week Celebrations 7 July 2008). Part of that speech is as follows:

The Declaration on the Rights of Indigenous Peoples

Articles 11-13 of the Declaration focus on cultural, spiritual and linguistic identity including:

- rights to practice and revitalize our cultural traditions and customs including the transmission of histories, languages etc;
- the protection of traditions, sites, ceremonial objects and repatriation of remains;
- right to maintain, protect and develop the past, present and future manifestations of our cultures, including archaeological and historical sites, artifacts, designs, ceremonies, technologies, visual and performing arts and literature; and
- rights to the restitution of our cultural, intellectual, religious and spiritual property taken without our free, prior and informed consent, or in violation of our laws, traditions and customs.

International law, including the Declaration on the Rights of Indigenous Peoples, also provides for the protection of Indigenous peoples rights to care for our country, and rights to care for our culture.... [including] the right to practice and revitalise our cultural traditions and customs including our dances, songs, and stories which also contribute to the broader Australian communities visual and performing arts and literature.

KALACC Comment :

There is a high degree of coherence between Indigenous rights as expressed by the United Nations and the Mission, Objectives and Strategies of the Kimberley Aboriginal Law and Culture Centre.

However, as noted above, the reality is that program funding for cultural maintenance is highly constrained and keystone Indigenous initiatives like COAG barely refer to culture.

4. History of Speaking Up for Culture

Document Extract/ Copy # 4: The Crocodile Hole Report 1991

Culture and Land

8. The Kimberley Aboriginal Working Group must ensure the primacy of the Cultural rights of Aboriginal People and must embody the following fundamental principles as an integral part of all research, training and development activities and tasks in the Kimberley.

- Culture is collective memory and the Law;
- Culture is continuity;
- Culture is a way of life;
- Culture is being together;
- Culture is maintaining its continuity;
- Culture is the care and use of land;
- Culture is a bond that ties Aboriginal people to country;
- Culture is a living dynamic force continually adapting.

KALACC Comment :

For 30 years Kimberley Aboriginal people and their organisations have been speaking up for the primacy of their cultural rights. This advocacy has been expressed through many reports, Media Statements, approved academic research papers and in some books.

Governments have been exceedingly slow over 30 years to respect and value such statements and to acknowledge the centrality of the role of culture. And Governments today continue to condemn culture to the periphery of policy and funding decisions through :

- COAG : Natioanal Partnership Agreement Framework is structured around seven Building Blocks and culture is barely mentioned in the document ;
- COAG : There are funding commitments of over \$4.6 billion and close to none of this funding is for the purpose of cultural maintenance ;
- COAG : the 03 July 2009 COAG Communique makes barely any mention of culture. Nor do previous Communiques ;
- WA D.I.A : the Submission from the Government of Western Australia to this Senate Inquiry makes no mention of culture – except in the context of the prisons system.

5. Culture and Law in the Kimberley

Document Extract/ Copy # 5: Martin Preaud's PhD thesis *COUNTRY, LAW AND CULTURE: ANTHROPOLOGY OF ABORIGINAL NETWORKS FROM THE KIMBERLEY*. (AUGUST 2009 EXECUTIVE SUMMARY)

In Kriol, Law refers to the ritual domain activities, as in "Law Time" which designates the main ceremonial season (December-January). It is often talked of as a "blackfella university", an idea that must be taken seriously as it is a place where knowledge is effectively performed and passed on through the imposition of a strict discipline and a hierarchy of knowledge and participation. Basically, Law is about the many relationships linking people to places and to mythical agents (Dreamings) and it does not so much teach contents (e.g. songs, dances, images and objects) than the proper way to articulate them in a given time and place.... **Law, in this light, is about teaching these structures and the way to articulate to the contemporary social reality.**

Culture, on the other hand is mostly associated by Kimberley Aboriginal people to ways of living on the country and social rules, particularly kinship rules and obligations: "Culture is continuity ; Culture is a way of life ; Culture is being together ; Culture is maintaining its continuity ; Culture is a living dynamic force continually adapting" (Crocodile Hole Report, 1991). Although Aboriginal culture has gained recognition in the past forty years, it has not been recognised in its multiplicity and has been mainly adopted through commodities and for its economic potential. That is, while cultural objects have gained value and recognition, policies have not addressed the social conditions which make the production of such objects feasible.

KALACC Comment :

Martin Preaud has written "while cultural objects have gained value and recognition, policies have not addressed the social conditions which make the production of such objects feasible." He is perfectly correct. Martin's comments are also important in relation to the clarification of terms Law, Lore and Culture – terms that people unfamiliar with the Kimberley often confuse. KALACC makes no use of the term Lore though we do acknowledge that it denotes a body of traditional knowledge often conveyed through storytelling. Explanation of the terms 'Law' and 'Culture' are offered above – reflecting the use of these terms by KALACC Directors and cultural elders. We also note that when the Law Reform Commission of Western Australia produced a significant report in September 2006 that report was entitled the '*Final Report on Aboriginal Customary Laws.*' Kimberley people often refer to living under two laws and living in two worlds. This does not mean we call for a separate justice system, but does mean we call for a recognition of and respect for traditional structures, social rules and patterns of behaviour.

Part Two – The Extrinsic Importance of Culture

6. Culture Explicitly Acknowledged in Queensland Govt COAG Closing the Gap Planning Documents

Document Extract/ Copy # 6: Queensland Closing the Gap Report: 2007/08, Pages 74 – 78

The Queensland Government acknowledges that to 'Close the Gap' in Indigenous life outcomes, recognition of the importance of land, culture and history must inform the other areas of action dealt with in this report. To this end, the Queensland Government endeavours to promote and affirm Aboriginal and Torres Strait Islander cultures, create access to and management of land and sea as a base for wellbeing and cultural affirmation, and encourage stronger involvement in and influence on natural resource management planning and policy.

While there is no COAG target or Q2 target which is directly addressed by this strategic action area, improvements in service delivery in this arena will have long-term impacts on a number of the COAG targets. For example:

- increased acknowledgement of Aboriginal and Torres Strait Islander land and sea use and care practices may lead to employment opportunities;
- increased opportunities in the arts may result in enhanced employment opportunities, personal income earning potential and greater community sustainability.

The measures which will be used by the Queensland Government to monitor progress are under development. The following are strategies which will best support the importance of land and culture in 'closing the gap':

- promote and affirm Aboriginal and Torres Strait Islander arts, culture and language
- support access to, and management of, land and sea
- support and enable Aboriginal and Torres Strait Islander peoples to protect and strengthen their cultures and to record and manage their cultural heritage and language

KALACC Comment :

The specific acknowledgement of culture within the Queensland Government Closing the Gap planning documents is to be commended. The documents describe three strategies for supporting land and culture and then detail a number of specific programs and actions to be undertaken in relation to these three strategies. KALACC understands that the Western Australian Indigenous Implementation Board has presented a report to the Western Australian Government recommending that culture be placed at the centre of Government Indigenous policies. Sadly, to date, this is far from the case.

7. WA Indigenous Implementation Board – Recognising the Importance of Culture

Document Extract/ Copy # 7:

Speech by LIEUTENANT GENERAL JOHN SANDERSON, AC,
CHAIRMAN INDIGENOUS IMPLEMENTATION BOARD
CURTIN UNIVERSITY OF TECHNOLOGY PUBLIC POLICY
INSTITUTE PERTH HYATT FRIDAY 15TH MAY 2009 THE
INDIGENOUS IMPLEMENTATION BOARD

The Board has been very deliberate in getting its own purpose and strategy clear before proceeding to build these alliances. It had to have a strategic conversation with itself in order agree the framework for engagement. Out of the conversation came a strategic framework* that is based on the agreed understanding that:

Aboriginal people and their culture are critical to the future of our State. Their unique knowledge is the defining element in building a sustainable future for Western Australia.

On the basis of this belief and this understanding, the Indigenous Implementation Board will drive the empowerment of Aboriginal people to create their own future. This provides the foundations on which strong partnerships can be built to bring about positive outcomes for all of us.

To achieve these outcomes the Board will catalyse a fundamental rethink of Government policy. *It will move swiftly to:

- enable the Aboriginal design and delivery of services
- ensure the continuation of a vibrant living culture
- refocus regional governance to build sustainable communities, economies and environments
- engage all sectors

This is the Board's strategic vision. To begin the process, the Board has developed an action agenda for the first 100 days which includes*:

- starting regional dialogues, commencing in the Kimberley in March 2009 and moving across the State
- facilitating meetings of senior Aboriginal law men and women to advise the Board
- ensuring the development and empowerment of indigenous leaders

- commencing the redesign of Government process and decision making in partnership with the Aboriginal Affairs Coordinating Committee (AACC) and Aboriginal Affairs Advisory Committee (AAAC).

This process of empowerment can best be described as the fostering of Indigenous governance. I have to tell you that very few resources have been allocated to Indigenous governance in all the new initiatives that have been discussed in recent times – although much is being made of forming partnerships with Indigenous people in the places where COAG intends to create its new order. In fact, it is possible that the chosen locations earned their status by virtue of the fact that there have been some governance initiatives there due to past crisis management activities – place like Fitzroy Crossing, Halls Creek and Beagle Bay.

Importantly, from the Board's perspective, there is no money for regional governance initiatives, despite the fact that initiatives like royalties for the regions and the outcomes of the Browse Basin gas hub negotiations demand a regional engagement. The Board is committed to changing this, as you will have observed from its strategy. More to the point, the Board sees this as the best way to get at both the cultural and economic development requirements of its strategy.

KALACC Comment :

In August 2009 the Western Australian Indigenous Implementation Board presented a report to the Western Australian Minister for Indigenous Affairs, Kim Hames. The report called for the government to invert its Indigenous management practices and to replace the tried, tired and failed systems with new ways of doing business. The new ways of doing business would place cultural governance at the foreground of Indigenous Affairs Policy. The Government – not surprisingly – has not made the report public and has not to date endorsed the report. Clearly, they should accept and endorse the report.

Key elements are:

- the failed history of past Indigenous Affairs policies;
- the need for a fundamental paradigm shift in Indigenous Affairs;
- the need for culture to be placed at the centre of a fundamentally new system.

8. Culture and Well – Being

Document Extract/ Copy # 8: *Culture and Well – Being*, Michael Dockery, Curtin University (2009);

In relation to health and well- being, we refer the Senate to the following reports:

- *Culture and Well – Being*, Michael Dockery, Curtin University (2009);
- *Sustainable Northern Landscapes and the Nexus with Indigenous Health: Healthy Country, Healthy People*; Stephen Garnett and Bev Sithole, Charles Darwin University (2007);
- *Essentials for Social Justice: Land and Culture – Economic Development*, Tom Calma, HEREOC 2008.
- *Kimberley Appropriate Economies Roundtable Forum Report, 2006*;
- *Successful Initiatives in Remote Indigenous Communities in Western Australia*, WA Parliament Standing Committee on Health and Education, 2008

The following is the Abstract at the front of Michael Dockery’s 2009 paper *Culture and Well-Being*:

ABSTRACT

A recurring theme in the debate surrounding Indigenous affairs in Australia is a tension between maintenance of Indigenous culture and the achievement of ‘equity’ in socioeconomic outcomes: essentially ‘self-determination’ versus ‘assimilation’. Implicit in this tension is the view that attachment to traditional culture and lifestyles is a hindrance to the achievement of ‘mainstream’ economic goals. This paper argues the need for a renewed focus on the wellbeing of Indigenous Australians, and for empirical evidence on the link between culture and socio-economic wellbeing instead of ideological debate.

Using data from National Aboriginal and Torres Strait Islander Social Survey, a strong attachment to traditional culture is found to enhance outcomes across a range of socioeconomic indicators. This suggests Indigenous culture should be viewed a potential part of the solution to Indigenous disadvantage in Australia, and not as part of the problem.

KALACC Comment :

The Dockery paper is a significant and important contribution because it provides the beginning of an empirical basis to the claim that culture contributes to health and well- being. Clearly this is not a view currently shared by Governments so we need to build on the important initial work of Dockery to develop a more comprehensive demonstration of this nexus.

9. Healthy Country, Healthy People.

Document Extract/ Copy # 9: *Sustainable Northern Landscapes and the Nexus with Indigenous Health: Healthy Country, Healthy People* ; Stephen Garnett and Bev Sithole, Charles Darwin University (2007)

EXECUTIVE SUMMARY

Aboriginal people actively involved in ICNRM were demonstrably healthier than those who weren't. In particular they had low levels of the precursors of cardiovascular disease and diabetes. They also felt good about themselves because they were fulfilling cultural responsibilities, eating good traditional food and avoiding the social tensions of town life.

The Aboriginal lands examined had fire regimes closer to what is believed to be a traditional fire regimes than nearby conservation areas and pastoral lands. This can be attributed partly to the lower fuel loads consisting of a wide range of perennial grasses. Elsewhere the grass layer was dominated by large annual species or weeds. In contrast feral animals, particularly buffalo, were far more abundant on Aboriginal lands. Tools were developed that can assess ecosystem health at a landscape level.

The research was designed as a proof of concept that investment in ICNRM has ancillary benefits for physical health. The results suggest investment can be justified, though the ideas need testing in other situations. There may also be educational, economic, employment, governance and judicial benefits as well as benefits for mental health. ICNRM can be seen as integrating concept across many policy domains.

There is strong potential for active involvement in ICNRM to be added to the list of headline indicators of success in Indigenous policy. An ICNRM indicator could also be considered as an option to fulfil Indigenous aspirations for a cultural indicator. The research also supports the idea that State of Environment reporting should develop further its assessment of the level of engagement by Indigenous people in environmental reporting.

KALACC Comment :

The Dockery paper [as per the previous page] focuses specifically on indicators of cultural practice eg funerals and festivals. This Charles Darwin University paper approaches 'cultural factors' in a broader sense and explores the benefits of connection with country and traditions. But of course this is a very western compartmentalisation of Indigenous lifestyles. The point is that the Charles Darwin University study shows significant health benefits arising from culturally – based natural resource management practices.

10. Land and Culture – Economic Development

Document Extract/ Copy # 10: *Essentials for Social Justice: Land and Culture – Economic Development*, Tom Calma, HEREOC 2008.

With the government purporting a changing attitude towards improving the lives of Indigenous people, there are a number of critical steps that are required to ensure that this aspiration is fully achieved.

These steps include:

1. a full understanding, recognition and respect for Indigenous peoples rights to our culture and our country;
2. developing policy that deals with Indigenous disadvantage from a holistic perspective;
3. engaging Indigenous people as major stakeholders in the development and implementation of policies and programs that affect us; and
4. increasing the cross cultural competence of bureaucracy to ensure policies and programs support the sustainability and self determination of Indigenous communities.

These steps are very broad and apply to all areas of Indigenous policy including land management, cultural heritage and native title.

I am not convinced that there is a full understanding of the importance of culture and its relevance to Indigenous peoples' relationship to country, or to the broader social and economic improvement in the lives of Indigenous people.

In saying this, it is important to appreciate the two world views of what country means to people. For non-Indigenous people and land owners, land is a commodity to be bought and sold, it is an asset to make a profit from, and it provides a level of sustainability for those who choose to make a living off it, for as long as it is tenable. For non-indigenous Australians, land may also be their 'home'.

Land is also our 'home'. However, the responsibilities that go with our home do not allow us to sell up or move on when it is no longer tenable, the land is our mother, it is steeped in our culture, and we have a responsibility to care for it now and for generations to come. This care in turn sustains our lives – spiritually, physically, socially and culturally - much like the farmer who lives off the land.

Another area that requires recognition of the contribution to improving the lives of Indigenous people, is that of the indigenous art industry. This industry contributes \$100 million annually to the Australian economy with very little of this actually being returned to the artists or their communities and no protection to ensure that it does. However the social, cultural and economic benefits that are derived from the Indigenous art centres are undeniable.⁵

The Indigenous arts sector generates important benefits in the area of biodiversity maintenance and natural resource management as well as maintaining culture and generating income and employment opportunities.

If we are serious about closing the gap for Indigenous people, particularly those living in remote communities, then we must start with what we know. That is that, employment and economic development opportunities that are built on caring for country, and caring for culture, improves the lives of Indigenous people.

KALACC Comment :

Commissioner Calma then discusses the important social, health and environmental outcomes that arise from Indigenous land care and environmental management projects. However, whilst the Government invests hundreds of millions of dollars in to programs such as Working on Country, there is no similar level of investment in to culture based programs. Commissioner Calma states that:

“employment and economic development opportunities that are built on caring for country, and caring for culture, improves the lives of Indigenous people.”

If this is the case, then why is there heavy investment in to caring for country and only minimal investment in to caring for culture ?

11. Kimberley Appropriate Economies Report – Principles

Document Extract/ Copy # 11: *Kimberley Appropriate Economies Roundtable Forum Report, 2006;*

The Kimberley Appropriate Economies Roundtable was held in Fitzroy Crossing, Western Australia on 11-13 October 2005. Organised by the Kimberley Land Council (KLC), Environs Kimberley (EK) and the Australian Conservation Foundation (ACF), the gathering explored options for appropriate development in the Fitzroy Valley and Canning Basin. Over one hundred people gathered from the Fitzroy Valley, throughout the Kimberley region, and from elsewhere in Australia and overseas. Participants included Traditional Owners, academics, pastoralists, training providers, small business people, farmers, representatives of government agencies and environmentalists.

The Roundtable idea came about in response to people's desire to assert their rights and set the agenda for the future development of the Kimberley region, rather than continue to respond to unsustainable proposals from people and industry groups outside the region. The overall purpose of the forum is to chart ecologically, culturally, socially and economically sustainable development for the Fitzroy and Canning basins, founded in the vision and values of the peoples of the region.

The first recommended action is to develop a process that ensures that governments and other responsible bodies apply these principles to development in the Kimberley.

The Eleven Principles

1. Development proposals recognise that the Kimberley region is a place of special cultural and environmental values with national and international significance.
2. Development proposals acknowledge that culture guides economic activity for Indigenous people, and appropriate development must be based on healthy country and strong culture.
3. Development proposals recognise and respect the rights of Traditional Owners to make decisions about their country.
4. Development proposals consider issues of Aboriginal access to land and equity of land tenure.
5. Conservation and cultural management are recognised as valuable and important contributions to the economy and society:
 - The local economies of hunting, fishing, looking after people, culture and country are valued and supported;
 - The rights of Traditional Owners are recognised when conservation areas are established;

- Senior Indigenous people are supported in the transmission of knowledge and confidence to young people; and
 - Benefits from cultural information are returned to the holders of that information.
6. The people of the region are able to participate in planning for the region, are supported by government in that process, and their views are respected and included when implementing planning outcomes.
 7. The Fitzroy River, ground-waters and conservation areas are protected by a legal framework.
 8. A new economic system is developed, based on a diversity of enterprises that support the needs and wishes of Kimberley people.
 9. Enterprise planning and management is built upon skills and knowledge transfer, and is tailored to the needs of the local area.
 10. Successful and emerging local enterprises are supported by the establishment of region-wide co-operative networks.
 11. Ongoing and sufficient funding is a critical component in the support and implementation of appropriate development.

KALACC Comment :

Principle Number 5 reads as follows:

5. Conservation and cultural management are recognised as valuable and important contributions to the economy and society:
 - The local economies of hunting, fishing, looking after people, culture and country are valued and supported;
 - The rights of Traditional Owners are recognised when conservation areas are established;
 - Senior Indigenous people are supported in the transmission of knowledge and confidence to young people; and
 - Benefits from cultural information are returned to the holders of that information.

This principle and concepts associated with it are being embedded in the emerging development of the Kimberley Caring for Country Plan and other processes which KALACC is involved in.

12. Kimberley Appropriate Economies Report – Actions

Document Extract/ Copy # 12: *Kimberley Appropriate Economies Roundtable Forum Report, 2006;*

The Sixteen Actions

Guidelines for Sustainable Development

Action 1: Develop an enforceable Statement of Guidelines for sustainable development in the Kimberley.

Research

Action 2: Develop a long term, integrated, and co-operative research program that includes the provision of results to the Kimberley community.

Action 3: Conduct a survey of local community interest in sustainable agriculture or other developments.

Support and Integration

Action 4: Establish systems and structures to promote, assist and support new and existing sustainable and appropriate enterprises.

Conservation Areas

Action 5: Develop processes that promote and support culturally appropriate conservation areas.

Action 6: Put in place real and effective arrangements for the co-management of the conservation estate by Indigenous people.

Planning

Action 7: Investigate, develop and implement a planning process that includes Kimberley people as main stakeholders and decision makers.

On the Ground Initiatives and Activities

Action 8: Promote and support on ground initiatives managed and operated by local people.

Action 9: Develop ‘quality and integrity’ control systems for tourism activities, which include the Roundtable’s ‘Statement of Principles’ for Kimberley development.

Action 10: Develop and support enterprises built on cultural knowledge and expertise.

Intellectual and Cultural Knowledge and Education

Action 11: Develop and support processes to protect and enhance cultural knowledge, and ensure that it is passed to future generations.

Action 12: Provide legal recognition and protection of intellectual knowledge as the property of Traditional Owners.

Action 13: Develop and support processes to facilitate the teaching of Indigenous culture, knowledge and language in schools and other training places.

Funding

Action 14: Develop a streamlined and regionally-controlled funding system that allows ready access to funds that support appropriate development initiatives.

Land Tenure, Land Access and Land Management

Action 15: Develop and implement a process to efficiently and quickly deliver land title or access to land where appropriate.

Action 16: Provide effective means for control of and access to land where Native Title exists.

KALACC Comment :

Actions 10 – 13 each relate to Cultural Knowledge, Education and Economic Development. KALACC is seeking to translate these actions in to specific activities and projects as follows :

- **Develop and support enterprises built on cultural knowledge and expertise:** DEEWR have agreed in principle to fund a Kimberley cultural economy study based on the various KALACC Business Plans but have not yet agreed to fund a study of the transition of 81 positions currently funded by DEWHA/ DEEWR under the National Jobs Transition Package.
- **Develop and support processes to protect and enhance cultural knowledge, and ensure that it is passed to future generations:** In March 2009 KALACC presented a Business Case for a Regional Youth Program to COAG. No Response to date;
- **Develop and support processes to facilitate the teaching of Indigenous culture, knowledge and language in schools and other training places:** KALACC is negotiating with the Myer Foundation and the Yulgibar Trust to fund a program for rolling out school based cultural programs which have been proven to increase attendance and retention rates, improve levels of pride and self esteem and to contribute towards improved literacy and numeracy test result scores.

In each of these instances we have sought significant Government investments but have to date only received small levels of Government support and generous levels of Philanthropic support.

13. *Kimberley Caring for Country Plan*

Document Extract/ Copy # 13: *Kimberley Caring for Country Plan*

Background

Regional strategies

Regional strategies framed by Aboriginal approaches to Country are a long-held vision of Aboriginal peoples of the Kimberley Region of Western Australia. Regional strategies aimed to integrate Aboriginal principles and values in managing Country have been instigated at a major regional meetings and gatherings since the Crocodile Hole Conference of 1991. It is important to remember these initiatives, as Traditional Owners (TOs) still refer to the outcomes of these meetings as directions that need to be taken seriously.

Project aims

This project aims to create a Kimberley Aboriginal Caring for Country Strategy that provides a regionally coordinated approach to CNRM within the Kimberley Region of Western Australia.

The aim of the Strategy is to;

- ‘respond to environmental, social, cultural, language and economic priorities for Aboriginal people by focusing on outcomes delivered through appropriate management strategies in the natural and cultural resource management sector.’¹
- ‘coordinate a strategic regional approach for Aboriginal land, sea and water management,’²
- be based in, ‘Aboriginal perspectives of sustainability...in relation to the opportunities of Aboriginal management of land, sea and water,’³ and,
- ‘be underpinned by local and sub-regional country-based plans.’⁴

Project outcomes

Key project outcomes will include;

- a desktop review of previous plans, strategies and reports presented with findings presented as a scoping study document (that outlines projects completed to date, projects underway, formalised plans, agreed action-targets core values, linkages, partnerships and representative structures),
 - a draft Aboriginal Caring for Country Strategy that responds to community consultation and further research and development, and,
 - a final Aboriginal Caring for Country Strategy that will coordinate a series of separate strategies prioritised by TOs, community consultation, research and development of the individual strategies (investment strategies).
-

KALACC Comment :

It is important to note that the development of the *Caring For Country Plan* is being undertaken under the umbrella of the Collaborative Working Agreement between the Kimberley Land Council, Kimberley Language Resource Centre, Kimberley Aboriginal Pastoralists Incorporated and the Kimberley Aboriginal Law and Culture Centre.

If the *Caring for Country Plan* was just about Natural Resource Management then only the Kimberley Land Council and possibly the Kimberley Aboriginal Pastoralists Incorporated would need to be involved. But instead the *Caring for Country Plan* takes a holistic view that reflects the inseparability of Land, Law, Culture and Language.

As noted above, in relation to the Kimberley Appropriate Economies Forum Report Actions 10 – 13

KALACC is seeking to implement specific activities and projects in relation to:

- Developing and supporting enterprises built on cultural knowledge and expertise;
- Developing and supporting processes to protect and enhance cultural knowledge, and ensure that it is passed to future generations;
- Developing and supporting processes to facilitate the teaching of Indigenous culture, knowledge and language in schools and other training places.

The development of the *Caring For Country Plan* is one of the frameworks which we are seeking to use to describe and articulate our approaches to these issues.

14. *KDC Sustainable Economies Project (Steve Kinnane)*

Document Extract/ Copy # 14: *KDC Sustainable Economies Project (Steve Kinnane)*

The Appropriate Economies Roundtable was held in Fitzroy Crossing on October 11-13 2005 and provided a platform for discussion to explore sustainable economic activities and opportunities in the Fitzroy and Canning basins that are consistent with, and incorporate, cultural values. The forum included the presentation of technical papers across a range of topics to provide further understanding of potential and current sustainable industries.

The Kimberley Development Commission committed to funding research to provide a critique and analysis that that will complement the Appropriate Economies Roundtable forum. The research will contribute towards a greater understanding of the issues and opportunities in the area and provide enhanced information for use in decision making processes with relation to sustainable economic development.

The report will provide an opportunity for all sections of the community and industry to gain a greater understanding of the issues, challenges and opportunities faced in addressing a sustainable future for the Aboriginal people of the region.

KDC Research Proposal Terms of Reference

Research and prepare a report outlining development opportunities, constraints and issues including:

1. Provide a social and economic overview of the Fitzroy and Canning basin region with emphasise on indicators of Aboriginal development.
2. Undertake consultation with key stakeholder groups to attain a thorough understating of relevant issues in the region. Key stakeholder groups should include the following:
 - Kimberley Land Council
 - Australian Conservation Foundation
 - Environs Kimberley
 - Kimberley Development Commission
 - Local Government including the Shire of Derby/West Kimberley
 - WA Office for Aboriginal Economic Development
 - WA Department of Agriculture
 - WA Department of Indigenous Affairs
 - Federal Department of Employment and Workplace Relations
 - Federal Department of Indigenous Business Australia
 - Kimberley Aboriginal Pastoralists Association
 - Indigenous Land Corporation
 - Kimberley Area Consultative Committee

- Indigenous Coordination Centres
 - Aboriginal Lands Trust
 - Other appropriate groups highlighted by the Kimberley Appropriate Economies Roundtable forum proceedings
3. Report on existing areas of Aboriginal enterprise, their role in the economy, potential for sustainability and social outcomes with particular focus upon the Fitzroy and Canning basins.
 4. Identify current and potential barriers to entry for sustainable enterprises and industries.
 5. Report upon new and potential enterprises and their current or potential economic outcomes across a broad range of industries including:
 - Adventure, Nature-based, Cultural and Mainstream Tourism
 - Art and Craft
 - Wholesale and Retail Trade
 - Agriculture/ Horticulture
 - Pastoral
 - Native Bush Foods and Medicine
 - Mining and Associated Services
 - Conservation
 - Fire Management
 - Aboriginal Health
 - Environmental Health
 - Fishing and Aquaculture
 - Other industries highlighted through the Roundtable proceedings.
 6. Investigate and assess land management projects that may have potential positive economic outcomes for Aboriginal people including biodiversity conservation, cultural heritage and mining industry opportunities such as mine reclamation and site identification.
 7. Investigate and incorporate the New Opportunities for Tropical and Pastoral Agriculture initiative by the West Australian Department of Agriculture as a source of funding for potential and current sustainable Aboriginal agricultural enterprises.
 8. Examine other appropriate potential sources of funding for the establishment of sustainable industries including the Kimberley Indigenous Management Support Service (though the WA Department of Agriculture and the Indigenous Land Council) and Looking After Country Grants (through the WA Department of Indigenous Affairs).

KALACC Comment :

The Kimberley Development Commission Sustainable Economies Project is an extension of the Agenda and Program developed in the Appropriate Economies Forum context. This agenda is a distinct and separate vision to that offered by extractive industries. The Senate Inquiry is particularly interested in learning of things that work at the level of the remote communities. Yet amongst all the rhetoric of Government relating to the real economy and real jobs there is a minimal investment in to exploring what is appropriate and effective in remote communities. The work by KDC and Steve Kinnane is an important contribution to that task.

15. *Successful Initiatives in Remote Indigenous Communities in Western Australia – the Yiriman Youth Project*

Document Extract/ Copy # 15: *Successful Initiatives in Remote Indigenous Communities in Western Australia*, WA Parliament Standing Committee on Health and Education, 2008

No more important on a Yiriman trip is the rich education young people receive in traditional law and custom. While on trips, young people accompany adults, particularly elders, on hunting expeditions; are taught language by the old people; sit around the camp hearing stories of the past; look after those who are less physically able by setting up camp and collecting firewood; take care of younger children and work on other practical projects with members of their community while learning about and maintaining culture. Many of the trips are planned to build in training and education opportunities. For example, traveling together with trainers young people get to learn how to burn country using traditional and modern burning techniques, take bloods and carry out postmortems for quarantine testing, use machinery for various land care purposes, operate digital technology to record research, build their literacy and numeracy levels, learn about health management and first aid, make films and other production work and create project reports using multimedia and public presentation software.

There are a number of features of the Yiriman model that have impressed me. Yiriman is a programme that was established by ‘cultural bosses’ and has continued to operate under the clear direction of senior people. There are a number of conventions and processes that allows this to happen. For example, Project Officers are constantly taking direction from the ‘bosses’ of the four cultural blocks involved in its management. Each trip begins under the direction of local bosses and many join Yiriman trips. Yiriman is auspiced by the Kimberley Aboriginal Law and Culture Centre, the region’s principal organisation for the maintenance of customary law and life.

Finding 10

The Yiriman Project is a successful project in the west Kimberley region and has brought together various state and local government as well as academic and Indigenous organisations. It has provided a unique mix of positive social and economic outcomes.

Recommendation 13

The Yiriman Project should be supported by government and used as a model for similar projects in Indigenous communities in other remote regions of Western Australia.

KALACC Comment :

It would be extremely difficult to sustain an argument that either State or Commonwealth Governments were genuinely interested in preventative approaches to social and community issues. In relation to justice issues the State expends \$2.0 billion annually on courts, police and prisons and has no investments in to community based diversion programs. In relation to health, Minister Roxon wrote to KALACC in March 2008 confirming a) investments in the order of \$150 million in to drug and alcohol treatment programs and b) no funding available for youth and diversionary programs. Programs that are diversionary and preventative and which are based on cultural models are not programs that Governments are keen to invest in. The terms of reference for the current Senate Inquiry are similar to the terms of reference for the previous State Parliamentary Inquiry. We trust that the Senate takes note of the recommendations from the State report.

Part Three – A critique of
Government Funding for Cultural
Maintenance

16. Government Funding for Cultural Maintenance

Document Extract/ Copy # 16: *Minister Peter Garrett to KALACC* 10 July 2009

The Australian Government recognises the important relationship between culture and well being, particularly in remote Indigenous communities.

The Indigenous programs that fall under the responsibility of the Environment, Heritage and the Arts portfolio, including the Indigenous Culture Support (ICS) program, aim to further the long term development of Indigenous arts, culture, and heritage as a central part of how Australians see themselves.

The programs also contribute to the broader Australian Government Indigenous reform agenda of closing the gap on Indigenous disadvantage by contributing to the overall wellbeing of Indigenous people. To do this, the programs need to be able to provide support across all regions in Australia.

The ICS program has provided funding of \$7.024 in 2008-09 for over 135 projects across the country that not only encourage the engagement of Indigenous people with their culture and support the sustainable development of community organisations involved in cultural activity, but provide support for skills development and training in cultural areas, and support culturally based diversionary programs in prisons and high risk communities.

These are considered important projects in addressing Indigenous disadvantage in Australia.

KALACC Comment :

Literally billions of dollars are being spent on COAG Closing the Gap initiatives and in Western Australia the State Government spends \$2.0 billion every single year on police, prisons and courts – and about half of that achieves the outcome of locking up Indigenous Western Australians. How much is spent on Culture?

Major General Chalmers, referring to the Northern Territory context, has spoken of the need to recognise the elders and to acknowledge the importance of having a compass and a framework for life, because in its absence people are lost in limbo and are listless and directionless. He says that this is the single most important thing to be done for Aboriginal people to create a future for themselves.

You either agree with the General, the man who ran the Northern Territory Intervention, or you do not agree with him.

It seems that the Rudd Government, like the Howard Government before it, thinks the General is mistaken and befuddled. Because billions of dollars are being spent on COAG initiatives but on the single most important thing there is only an expenditure of a fraction over \$7.0 million

17. Government Funding for Cultural Maintenance – Heritage and Repatriation Programs

Document Extract/ Copy # 17: **Minister Macklin Speech at the International Conference on the Inclusive Museum 10/07/2009**

http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/print/jm_s_inclusive_museum_conf_10july2009.htm

I want to start with the words of Joe Brown, a Walmajarri Elder from Fitzroy Crossing and former Chairman of the Kimberley Aboriginal Law and Culture Centre. Joe Brown was part of the delegation which travelled to Sweden in 2005 to bring his old people home. This is what he said after the repatriation.

"If you take the spirits away from their land that makes the country sick, and when the old ones are returned their spirits are very happy to be back. He said, "It's not just important to lay the spirits to rest, it's also about respect. We are not animals - we are humans like white people. Every human has a spiritual life and you have to respect this."

For me, the great sense of coming home in Joe Brown's words and the peace it brings, underpin the significance of repatriation for Indigenous Australians. As well as its great capacity for healing. The Australian Government places great importance on healing the wounds that history has inflicted on Indigenous Australians. Today I can announce that we are overhauling the processes for the repatriation of Australian Indigenous remains from international institutions to make them more inclusive of Indigenous aspirations.

So that we can return the spirits to their land, restore the sense of peace and balance invoked so eloquently by Joe Brown, and help in the healing. To help with this review, a new International Repatriation Advisory Committee will be appointed in September. This Committee will advise me on a range of issues, including reviewing current international repatriation policy and finding a more effective way to deliver on international repatriation.

KALACC Comment :

KALACC welcomes this commitment from the Government. However, it is long overdue. Secondly, establishing a committee is a tried and true Government procedure for stalling and for providing itself with excuses for continued failures to act appropriately. A committee is no substitute for action. In the Kimberley we have sent hundreds of correspondences to Government agencies over the last four years, all imploring them to show a modicum of human decency and to appropriately fund our repatriation requests. After four years of literally begging we do now have some short term funding in place, but still no long term commitments and no sustainability for this crucial work.

Part Four – Appendices

- Appendix # One: *Soldier's Sympathy Intervenes*, The Australian Newspaper, 22 November 2008 ;

- Appendix # Two: Executive Summary of Martin Preaud's PhD thesis '*COUNTRY, LAW AND CULTURE: ANTHROPOLOGY OF ABORIGINAL NETWORKS FROM THE KIMBERLEY.*'

- Appendix # Three: Speech by LIEUTENANT GENERAL JOHN SANDERSON, AC, CHAIRMAN INDIGENOUS IMPLEMENTATION BOARD CURTIN UNIVERSITY OF TECHNOLOGY PUBLIC POLICY INSTITUTE PERTH HYATT FRIDAY 15TH MAY 2009 THE INDIGENOUS IMPLEMENTATION BOARD

Appendix # One: *Soldier's Sympathy Intervenes*, The Australian Newspaper, 22 November 2008

Soldier's sympathy intervenes

<http://www.theaustralian.news.com.au/story/0,25197,24687206-5013172,00.html>

Paul Toohey | *November 22, 2008*

Article from: [The Australian](#)

MAJOR-GENERAL Dave Chalmers is leaving the Northern Territory a profoundly changed man. For the past 18 months he has headed the NT emergency response, mindful of the potent symbolism-- attracting the scorn of some -- of being a senior soldier storming through the Aboriginal north.

Chalmers has never abused that position. Instead, as he heads back to Defence headquarters in Canberra, he finds himself believing that the most important thing Aborigines can do to find their future is to maintain their culture.

"Over time, we as a society have undervalued indigenous culture and in many places it's been lost," he says. "And where it's been lost, people have lost their compass, they've lost their framework of life. It's not being replaced by a mainstream Australian framework, and people are in limbo. We need to be paying a lot more attention to traditional healers and traditional lawmakers, the role they played, and play, in people's lives."

Most of all, Chalmers says, governments need to offer hope. "There's nothing worse than going to a community where the level of apathy is profound, (where) people see no point in engaging with government because government continually changes its mind, government is confusing and, anyway, I've got no job and I've got no prospects.

"Giving people a sense of purpose and hope is important. None of it is simple, but that doesn't mean that it's not something we shouldn't attempt."

Chalmers was not seconded from the military to talk policy. He's been the Government's policy enforcer. But enforcer seems too strong a word for him. "I wouldn't be human if I hadn't been profoundly affected by the experience," says the fit-looking 50-year-old.

He engages in unerring eye contact and has total confidence that the intervention is doing the right thing by Aborigines.

The stories of Aboriginal fleeing for the sandhills to escape his soldiers were untrue. But there was fear and worry, even though the army detained not one Aboriginal person. The Australian Defence Force's role was logistics, but there can be no denying the intervention was shock and awe. Chalmers thinks it has roused white city folks from a deep sleep.

"The most significant thing that has happened out of the emergency response is that the national conscience has been pricked," he says. "I look at the (news) stories over the last 20 years. Nothing's changed, because mainstream Australia has been able to turn a blind eye to the problems that exist.

"They, for the most part, have not wanted to confront the fact that we have Australians living in Third World conditions in a First World country. The first thing that's been achieved is a much greater willingness among the general Australian population to do something about the problem."

Asked if he could have envisaged that when former indigenous affairs minister Mal Brough appointed him last year, Chalmers says: "I think I have a much deeper understanding of the problems that confront indigenous Australians than I did 18 months ago.

"My past work has mainly involved working in culturally sensitive situations, in Aceh (where he was one of the first Australians on the ground) and Timor, which left me with tremendous sympathy and great respect for the way they go about their lives."

He says he has developed the same level of respect for Aborigines.

"Absolutely. Personally, I've come on a journey. My understanding was superficial and -- I have to say it -- my lack of respect for them was (the same as that of) many Australians."

Chalmers is not leaving with a sense of disgust for slum towns of the north, or for their troubled residents. His strong view is that the atrocious conditions represent the failures of successive governments. While distressed by encountering Aboriginal women with busted eyebrows and lips, and hearing stories of rape and killing, he has avoided settling on a one-dimensional view of Aborigines.

Asked if things had improved in the 73 territory communities seized under the intervention, he says: "I think the evidence says yes, but it's a conditional yes. While we've made tremendous progress in many areas, some of that has just highlighted how deep the social dysfunction, the lack of services, the problems people face are, and how far we have to go to overcome them."

Talking of the classic old bearded Aboriginal bush men, of whom he has photos on his office wall in Darwin, Chalmers says: "They have rich life experience but somehow they're bewildered by what happened. How did the respect they were held in evaporate? I have by no means a thorough understanding of Aboriginal culture, just glimmerings.

"We as Australians should value it."

We did not quite expect this of Chalmers.

"Possibly not," he agrees. "There's a stereotype around the military, and people use that to evoke a response around the stereotype."

"I'm just like anyone else. You go out to communities and you can't help but be moved by the circumstances people confront in their day-to-day life. To go to a community and see children who exhibit all the symptoms of neglect, whose noses are running, whose hair is discoloured through deficiency, who are undernourished ... To see kids who have no spark. To walk into some communities where the sense of despair is almost palpable."

It's not all bad. Last week Chalmers was in Wallace Rockhole, in central Australia, where he saw bright children, enthusiastic school attendance, concerned parents and functioning government services. It was uplifting.

For the present generation of illiterate and alcoholic parents, he has no answers. No one really does. "There are things we can do, but their lives are a salutary lesson of what happens when we lose culture and the cultural framework that provides meaning to people's lives. And at the same time we don't provide the services that other Australians expect. We've got to offer the next generation hope."

Chalmers thinks the intervention has delivered much. There is income management and he has connected government departments that previously acted "completely independently, with no visibility of what others are doing".

His task was to usher in the intervention, but what he never expected to find -- which soon became one of his priorities -- was community stores with poor food. He talks of the importance of food security.

All stores have been independently assessed on their quality of food and governance. Corrective measures have been applied and there are now 72 licensed stores, which does not mean they sell alcohol but that they offer, typically, 900 product lines compared with at most 100 before. Now they are considered good enough to accept the swipe cards provided under the income management regime.

Chalmers thinks Queensland indigenous educator Chris Sarra may have overstated his position in this newspaper last week about the "white trash" occupying Aboriginal communities, and points diplomatically to hard-working teachers, police and nurses. But he clearly shares some of Sarra's concerns.

"There are also people who have found their way into communities and become self-appointed spokesmen, gatekeepers, often the opinion shapers for communities, and those are the people I find to be extremely frustrating," he says. "They're running the community store or the art centre for their own personal benefit, living off the disadvantage of the community for their own benefit, so they'll work hard to prevent the community from advancing or changing or becoming empowered."

On the subject of child sex abuse, Chalmers is non-sensationalist. "I would say the rate of child sex abuse is higher in indigenous communities than it is in mainstream Australia. I'm not in a position to say how much higher it is.

"The emergency response is a holistic attempt to address these problems. Looking at housing, health education and employment, taken together, if we can make progress in building sufficient, quality housing, we will have gone a long way."

Chalmers is going back to Canberra to a new job: commander, joint capability management division. He leaves believing governments are genuine in their desire to effect change.

"I think the evidence is on the public record of real, genuine commitment to doing something about the circumstances indigenous people find themselves in."

Asked if Aborigines have responded adequately to these changes, Chalmers chooses compassion over blame.

"That's a difficult question and the simplistic answer is no. One of the things we need to work with Aboriginal people on is individual and community responsibility. Why doesn't that sense of responsibility exist now? You could easily get into blaming them for the circumstances they now find themselves in.

"The truth is, people find themselves in those circumstances for reasons that 200 years of history have created, and for reasons of failed government policy of years and years."

Appendix # Two: Executive Summary of Martin Preaud's PhD thesis '*COUNTRY, LAW AND CULTURE: ANTHROPOLOGY OF ABORIGINAL NETWORKS FROM THE KIMBERLEY.*'

COUNTRY, LAW AND CULTURE: ANTHROPOLOGY OF ABORIGINAL NETWORKS FROM THE KIMBERLEY

Executive summary

1. Presentation of thesis

This thesis was written following fieldwork carried in northern Australia between July 2005 and September 2007, most particularly with the Kimberley Aboriginal Law and Culture Centre, following the signature of a collaborative research agreement between the researcher (James Cook University & Ecole des Hautes Etudes en Sciences Sociales, Paris) and KALACC. The main research method used was participant observation; it involved participating in the daily activities of the Centre, attending meetings and participating in the various programs and projects of the organisation.

The full thesis, written in French, is 540 pages long and includes illustrations and bibliographical references. A shorter English version (150 pages) was provided to KALACC and James Cook University. The thesis is divided in 5 chapters, the content of which is described below.

Chapter 1 discusses the Kimberley region of Australia as an Aboriginal Country or, rather, a set of distinct but linked Aboriginal countries. First, I discuss the category "Aboriginal" (formerly Aborigines, Natives, Aboriginal and Torres Strait Islanders, etc.) and its role in the development of the (Western) Australian state and economy.

However an overview of contemporary Aboriginal communities also reveals a "black" or subaltern history – made of narratives of attachment/relations to places and people through the various and numerous displacements entailed by the settlement of the region and the politics of recognition – still in living memory and active in the Aboriginal Kimberley.

Although Country is mostly defined through reference to the Dreaming cosmology, other important narratives (e.g. historical, genealogical) participate to the subjective sense of Country and expressions of belonging. Such narratives can be seen as different layers of relational networks which are articulated in such nodes as people and places, which is why they have been reproduced through the (post)colonial experience.

The last part of the chapter explores two areas where conflicting conceptualisations of Country (e.g. relational vs judicial, technological) are at play in intercultural relationships in Australia: Native Title claims and land management. It is argued that although “Country” is a “nourishing terrain” for the development of intercultural relationships in Australia, the repeated failure on the part of government, the justice system, and economic actors to grasp the Aboriginal perspective and elaborate land rights policy accordingly is a major hindrance to those relations.

Chapter 2 provides with an ethnographic description of the Kimberley Aboriginal Law and Culture Centre (KALACC). In a first part the concept of “Law and Culture” (an Aboriginal concept expressed in Kriol) is studied through the history of the organisation. It is argued that the notion of “Law and Culture” relates to the intrinsic dynamics of Aboriginal social and cultural organisation and that the establishment of KALACC (along with the Kimberley Language Resource Centre, KLRC) was a reaction to those effects of settlement affecting this dynamic and the Aboriginal “oral economy of information”, particularly the necessity to make cultural knowledge public (as in land claims and the arts industry).

KALACC is an attempt on Aboriginal ritual bosses to assert control over the representation of their cultural knowledge in the Australian public sphere as well as a means to obtain recognition for the societal role of “cultural bosses” whose authority has been eroded by both settlement and recognition (self-determination) processes.

The second part illustrates how KALACC philosophy - best summarised as “*old people are our government*” (Wire Yard report 1995) - is translated into the administrative realm of Aboriginal affairs through the separate categories of “arts and culture” and “law and order”. *This translation of Law and Culture into these categories amounts to a neutralisation of the societal objective embodied by the organisation.* Kimberley cultural bosses are constrained by administrative structures and processes to make pragmatic compromises over their own structures and practices in order to maintain their existence as such, thereby participating in the depreciation of ritual authorities while trying to defend and promote it at a political level.

Chapter 3 explores the social, political and economic dynamics presiding over the making of a remote Western Australian Town. Particular attention is given to the dynamics of “mob” formation and the articulation of aboriginal kinship (relational, distributed) systems to the centralised (although complex and layered) bureaucratic structures, particularly that of the welfare economy and state administrations.

Considering “mobs” as the basic social group among Aboriginal people (defined through shared experience and common interests) further reveals the interdependencies linking Aboriginal people and the state into a coherent whole rather than separate entities while drawing attention to the performative, dynamic structure of Aboriginal social organisation following a rhythm of aggregation/dispersion that successive policies (founded on stable entities) have failed to recognise and integrate.

The last part of the chapter provides a description and a discussion of one of the most frequent events in Aboriginal political life, the meeting. I highlight the conflicts unfolding from participants’ differing not only on strategic options and objectives (i.e. not along cultural lines) but also from conflicting notions of representation. While Aboriginal people, especially ritual bosses, tend to operate through a logic of presence and personal interaction - and are held accountable through kin and political networks -, bureaucrats on the other hand tend to rely on and to be held by a system of representation where leadership, authority and responsibility is absent and delegated.

Chapter 4 examines contemporary forms of Aboriginal movements back to Country, especially through land claims and land management programs but also through cultural programs such as the contemporary art movement, Teaching on Country (KLRC) and KALACC’s Yiriman project.

Land management programs and the Yiriman project in the Kimberley are discussed as grass-roots “*develop-man*” programs of sustainable livelihoods on countries. Importantly, a close attention to the intergenerational transmission of cultural knowledge shows that it is rather a matter of reproduction by each generation not so much of cultural knowledge or content but of **means to articulate such knowledge in contemporary situations** thus including in it own movement elements that are deemed “non-Aboriginal” or “modern” such as GPS, cars, satellite observation, biological analysis, etc.

Land management appears as a contemporary means to “care for country”, a role which has formerly been devoted to ritual practice or painting. Such a perspective illuminates the Aboriginal assertion that healthy country results in stronger culture and communities.

Chapter 5 is a theoretical chapter attempting to describe Aboriginal specificities without imprisoning them into yet another essentialist category fixing them into an immutable tradition or a dying culture.

Law and Culture on the one hand and Country on the other hand, taken as Aboriginal concepts relating to socio-cultural sustainability allow for a dynamic model in which Country, as a relational (rather than purely geographical) entity constitute the matrix of multiple Aboriginal subjectivities. Different theoretical models are discussed – the sociological approach to ethnic boundaries, the ontological perspective on cultural difference, and theories of networks and multiplicities. While Indigeneity is a rhetorical device around which are negotiated political conflicts and economic struggles, it also relates to particular ways of living and being in the world rooted in affective relations to places and peoples, a cultural logic which articulates individual and collective being with a multiplicity of networked places, peoples and narratives.

Below are outlined some of the main arguments developed in the thesis

I Kimberley Aboriginal Law and Culture

1 Kimberley Aboriginal People

The existence of regional Aboriginal Kimberley organisations (KALACC, KLC, KLRC) demonstrates the fact that, at a certain level, Aboriginal people from the Kimberley recognise themselves as a coherent socio-political community. Such community is based on the shared experience of colonisation and of socio-economic marginalisation, but also rests on ancient social networks of circulation and exchange through which Aboriginal people have sought to engage with the impacts of settlement.

The history of the administrative district of the Kimberley was, for its Aboriginal inhabitants, a history of displacements (deportation, imprisonment, institutionalisation, etc.) which have had important effects on their social networks. It is important to recognise first, that some of these displacements were decided by Aboriginal people themselves in order to maintain those networks (e.g. movements out of the desert towards pastoral stations), and second that although these displacements were most often violent they also were the basis on which Aboriginal people have reconfigured their societies through the creation of multicultural communities, the adoption of a shared kinship system (8 skin names), the creation of a shared language of reference (Kriol). Australia has a black - or subaltern -history which has been constrained by colonisation and politics of recognition but cannot be wholly reduced to it. This black history is one of organising places and people into networks of affiliation, circulation and exchange.

Importantly, the fact that Kimberley Aboriginal people express a level of commonality through formal organisations does not mean that they form a homogenous whole. It is essential to recognise the multiplicity and diversity (in terms of culture, language, history, political and economic aspirations, etc.) to understand the social fabric of the Aboriginal Kimberley which can, depending on the situation, be divided into language groups, community groups (and alliances thereof) or, even more finely, into mobs (social groups formed from shared experience around common interests or aspirations). In this sense, the existence of formal representative regional organisation amounts to a strong political statement of unity through diversity, best captured in the oft heard phrase: “*Same but Different*”

2 Interdependencies

The public debate in Australia around Aboriginal issues is centred on the dichotomy between Aboriginal people on one side and the State, the mainstream, or the Australian society on the other. Such a dichotomy justifies and legitimates interventionist policies and in the neoliberal reforms of the late Howard government feeds on the idea that Aboriginal people are dependent (and thus accountable) on the state for their existence – an idea strongly contested by Crough & Christopherson in their review of Aboriginal participation to the economy (Crough & Christopherson 1991). *Indigeneity is not an immutable characteristic inherent to a restricted group of people, it is a rhetoric device used in a struggle for power and sovereignty within nation states.*

An analysis of the role of the category “Aboriginal” in the administrative ordering of the state reveals that it has been and still is an integral and functional part of it (cf role in the pastoral economy or marginalisation of Aboriginal interests to facilitate mining exploration). Indeed, many scholars have argued that an important reason why the state cannot solve the crisis in Aboriginal issues and ‘close the gap’ is that it is an integral part of the problem it is supposed to solve (Beckett). Historically, the Western Australian state acquired sovereignty at the expense of its Aboriginal inhabitants despite Crown opposition (1905 Aborigines Act) and has been constructed against such a category of people who represented an obstacle to either “civilisation” or the economic interests of the settlers; this view informed assimilation policies and its later reformulations (e.g. suppression of outstations for better economic integration).

On the other hand terms such as Aboriginal and Aboriginal have been actively used by those people themselves in order to advance their own political agenda, particularly so since the 1970s worldwide. Their agenda has been expressed in cultural terms because it was one of the areas where their claimed difference seemed to be heard and effective (cf links between land rights movement and contemporary aboriginal art, as with the *Ngurrara* canvas). It is one defining characteristics of Aboriginal groups that they cannot be heard politically in their own language by the *de facto* dominant society but have to either translate or adopt a foreign language to express their views.

3 Law and Culture

The Kimberley Aboriginal Law and Culture Centre (KALACC) was established in 1984 for the dual purpose of supporting ongoing ritual practice and advocate for the societal and educating role of “old people” (elders, cultural bosses, etc.) in the contemporary Australian and Aboriginal societies.

In Kriol, Law refers to the ritual domain activities, as in “Law Time” which designates the main ceremonial season (December-January). It is often talked of as a “blackfella university”, an idea that must be taken seriously as it is a place where knowledge is effectively performed and passed on through the imposition of a strict discipline and a hierarchy of knowledge and participation. Basically, Law is about the many relationships linking people to places and to mythical agents (Dreamings) and it does not so much teach contents (e.g. songs, dances, images and objects) than the proper way to articulate them in a given time and place. As linguist Christie elegantly puts it : “*In the Yolngu world it is not so much that every reality has an inherent structure, but rather that every structure can be seen to inhere in a whole range of realities*” (Christie 1992: 7); Law, in this light, is about teaching these structures and the way to articulate to the contemporary social reality.

Culture, on the other hand is mostly associated by Kimberley Aboriginal people to ways of living on the country and social rules, particularly kinship rules and obligations: “*Culture is continuity ; Culture is a way of life ; Culture is being together ; Culture is maintaining its continuity ; Culture is a living dynamic force continually adapting*” (Corcodile Hole Report, 1991). Although Aboriginal culture has gained recognition in the past forty years, it has not been recognised in its multiplicity and has been mainly adopted through commodities and for its economic potential. That is, while cultural objects have gained value and recognition, policies have not addressed the social conditions which make the production of such objects feasible.

Law and Culture has to be understood as one single concept which, in Kriol, expresses the particular dynamics of Aboriginal cultures and the capacity of its agents to submit foreign objects to their customs (see use of cars or of country music for instance). Although Law is said to be immutable, Culture on the other hand is recognised as dynamic and changing. When Kimberley Aboriginal people claim that “*The ongoing denial and continuing misunderstanding of our Cultural responsibilities is detrimental to the constructive use of Culture as an important tool in addressing the difficulties we face*” (Crocodile Hole Report 1991), they are making a case against the commodification of Culture or its reduction to a mere leisure activity. On the contrary, a dynamic understanding of Law and Culture points to the way Kimberley Aboriginal people have sought to “indigenise modernity”, that is to use foreign cultural elements or objects to fit and strengthen their own social and political purposes (e.g. caring for people and country). The translation of Law and Culture into “law and order” or “arts and culture” neutralises such a perspective and actually prevents people from implementing their own responses through their specific modes of collective organisation and action to the difficulties they face.

II The Aboriginal Kimberley

Keeping in mind what was said about diversity of Aboriginal peoples in the Kimberley and the multiple interdependencies linking Aboriginal groups to the Australian state, one has to see that the issue is not so much the confrontation between two bounded entities but, rather, their modes and levels of articulation. The pertinent opposition is not between static and essential cultural values but between modes of organisation, practice, and societal objectives.

1 Networks from the Kimberley

While the state is hierarchically and vertically organised, Aboriginal groups tend to be organised in distributed (horizontal) networks. The Kimberley region is the centre of a large system of exchange, the *Wurnan*, which has its roots in Ngarinyin country and extends towards all neighbouring countries, while the coastal and southern Kimberley are crossed by major Dreaming tracks which are also itineraries of circulation and exchange. The settlement of the Kimberley region and displacement of people into various institutions resulted in the displacement of these networks into those institutions and, later, into contemporary communities and outstations. While former networks of exchange linked individuals in a chain of exchange, it now links collective groups across the region and beyond. This is only one network among others; for example, as a result of institutionalisation, Kimberley Aboriginal people have adopted the skin or subsection system across the region which provides a frame of general reference between local kinship system, so that virtually all Kimberley Aboriginal people are relatives (with the rights and duties it entails such as attending funerals).

This vertical/horizontal opposition can only be a generalisation as there are hierarchies within Aboriginal groups as well as distributed aspects of the state (e.g. number of funding agencies belonging to different departments and administrations). But there is ample evidence that there is a problematic contradiction between the organisation of Aboriginal social networks (based on kin, language, country, religion or residence) and the state administrations. Austin Broos (2003) for example has shown that “dysfunctions” in Aboriginal organisations resulted from the centralisation of resources into a limited number of places and individuals, putting stress onto those individuals and their extended families.

Modern policies are designed for individual subjects while Aboriginal people are organised into collective and mobile arrangements called “mobs”. There has been ongoing debate among academics as to the nature of Aboriginal groups (tribes, clans, hordes) and Aboriginal groups have been incorporated according to the evolution of policies (as communities for self-determination, as language groups for Native Title purposes, etc.) but they have nonetheless retained a mobile form of group organisation following a dynamic of aggregation and dispersion that the notion of mob best captures. Here again a logic of articulation is at work as temporary mobs bring together groups of people who share experience (e.g. work on the same station, residence, language) around common strategic interest (land, resources, alcohol, etc.) which may and do vary over time. It is because of this dynamic that Kimberley Aboriginal people have formed large regional organisations to pursue their aims, such structures allowing for the composition of groups and alliances within; this is also a reason why they have repeatedly asked for a *regional* Aboriginal representative body crossing over Shire and other administrative boundaries.

2 Practices of representation

In the thesis I attempt to distinguish two regimes of representations that come into play in the contested field in which Kimberley Aboriginal people try to assert their political agency. Here again this is only a model, and thus a form of generalisation, as concrete situations are not so easily recognisable as individuals articulating these regimes in particular manners. These two regimes are situated at the extremes of a gradient of political practice. At one end socio-political practice is achieved through presence and personal accountability, while at the other (bureaucratic) end it is achieved through representation and diffusion of responsibility. While politicians and responsible people very seldom come to ‘sit down’ with Kimberley bosses, their demands (made through representatives) are most often responded to by Kimberley bosses with the need to discuss further the issues at stake with all the people concerned – a time-consuming and frustrating process on both sides which is also a major element of cross-cultural misunderstanding.

The meeting is a site where people attempt to articulate these different regimes in order to achieve socio-economic, cultural or political aims. As the meeting itself is a bureaucratic form highly constrained by a regime of representation it is also and most often a site of frustration where inequalities of power and differences in participation to the handling of social issues are reproduced rather than overcome.

That said, it is important to recognise that the political personnel of the Aboriginal Kimberley is still dominated by a group of elders whose background was firmly rooted in the ritual practice of an oral tradition. Orality does not just concern language and speech; it is better conceived of as cognitive mode which functions through the embodiment and performance of knowledge and power. Transmission of tradition is effectuated through the physical involvement of different generations in a collective performance. Ritual is the matrix of an oral economy of power and knowledge, but it is equally important to recognise that ritual bosses and political leaders have retained this mode while venturing into new political fields, venues and contexts. The KALACC festival is an example of a ritual gathering achieving both political and cultural objectives through a massive gathering of Kimberley Aboriginal people from diverse backgrounds and belonging of different generations. Similarly, land management programs include cultural components as soon as they bring old and young people on country in a collective action of “caring for country”; the phrase “Country needs its people” expresses the importance of physical presence of people on country to both take care of country and strengthen cultural values and knowledge.

3 Country

Comments about network organisation, mobs and the articulating dynamic of Law and Culture all illustrate the fact that the reality of Kimberley Aboriginal societies is constructed relationally. Individuals are nodes in multiple networks and as such are themselves a multiplicity themselves as these multiple relations are not exterior to them but constitutive of their self, hence the prevalence of mobs in their social organisation. From an economic perspective this means for example that people do not produce goods or revenue through work or production (an action on something exterior and foreign) but through the negotiation of relatedness with their kin, both actual and classificatory (Myers 1986, Peterson 1993).

The concept of Country captures this relational dimension of Aboriginal societies as it is both an extension of the self and a sentient relation with which to negotiate one's existence – a “living Country”. This is why, as outlined in Natural and Cultural resource management documents “caring for country” equates with “caring for people and/or communities”. Although Country has a geographical reality (as for Native Title purposes) it is fundamentally a relational country such as the delimitation of any Country depends on the situation, the people involved (both Indigenous and non-Indigenous) and the various networks it articulates (hence the possibility of a Kimberley Aboriginal Country concomitant with other local countries).

This particular way of relating to, living on and caring for Country opposes important vested interest such as mining exploration, tourism ventures or strategic state resources. In this domain as in many others, Aboriginal people want to assert control and exert what they see as their responsibilities. In this domain as in others, Aboriginal peoples' views and aspirations are undermined because of economic and power imbalance (in terms of capital, power, language, population, etc.). Throughout the world Indigenous people live in areas of intense biological and cultural diversity and have gained recognition at national and international levels for the role their knowledge can play in the face of ecological crisis, but it is essential to recognise that traditional ecological knowledge (TEK) *per se* is not sufficient if it is not integrated within cultural practices of relating to and caring for country. In fact the recognition, appropriation and commoditisation of TEK can actually undermine the ongoing reproduction of Indigenous societies and countries..

Indigeneity

There is not one single and definite Aboriginal culture to preserve, protect or conserve; rather, there is an ongoing movement of an unfolding multiplicity and what should be valued, recognised and encouraged is not the product of such cultures but their very production in the present. As such, the maintenance of Aboriginal culture cannot be achieved through isolation but by building the capacity among young generations to articulate multiple cultural/economic/political environments. A specificity of Aboriginal cultures lies in their territorialisation of such articulations in actual places and people.

The main benefit of cultural education is precisely to build confidence among young people in their capacity to articulate multiple worlds and mobs rather than being torn apart: it is what Aboriginal Law and Culture is all about (cf yiriman project).

Aboriginal claims to historical and cultural specificity is not the expression of a will to separate from the Australian state and society but an attempt to establish meaningful relationships where they are recognised as legitimate partners (rather than ignorant children or guilty cultural perverts) and where responsibility is shared on both sides. Social “dysfunctions” in many Aboriginal communities are not the result of the Aboriginal cultures alone or *per se* but have been emerging from the problematic articulation of Aboriginal socio-political organisation with that of the state and the market economy (centralised/distributed) in a situation where interdependencies are not acknowledged and where an implicit assimilationist framework still informs most policies (through economic integration, governance, etc.). This is not to say that Aboriginal people do not want better health, education, or economic performance but that they want to have a say in what exactly constitutes performance.

**Appendix # Three: Speech by LIEUTENANT GENERAL
JOHN SANDERSON, AC, CHAIRMAN INDIGENOUS
IMPLEMENTATION BOARD CURTIN UNIVERSITY OF
TECHNOLOGY PUBLIC POLICY INSTITUTE PERTH HYATT
FRIDAY 15TH MAY 2009 THE INDIGENOUS
IMPLEMENTATION BOARD**

CURTIN UNIVERSITY OF TECHNOLOGY
PUBLIC POLICY INSTITUTE
PERTH HYATT FRIDAY 15TH MAY 2009
THE INDIGENOUS IMPLEMENTATION BOARD

BY

LIEUTENANT GENERAL JOHN SANDERSON, AC
CHAIRMAN INDIGENOUS IMPLEMENTATION BOARD

First let me acknowledge the traditional owners of the land we meet on today, the Wodjuk people of the Noongyar Nation, whose ancestors hunted and dreamed here along the Derbalyeragun for thousands of years before the coming of the Europeans. In acknowledging our debt to them for their custodianship and nurturing of these lands, I want to also pay my respects to the elders whose wisdom has guided their people on that journey.

There is a resurgence of the pride associated with that culture and those of other Aboriginal people that is a vital part of the future of this state and this nation. That is a central part of the belief that drives the Indigenous Implementation Board in its strategy to change the way Government engages with the Aboriginal people in Western Australia.

Indigenous Implementation Board as a title is clearly a self inflicted wound. Why would anyone come to hear a presentation on something that sounded as mundane as an Implementation Board? We members of the Board all struggle with this title and would like something that sounded more dynamic in terms of radical change, which is our ambition, but, at the same time, one that did not frighten the horses and cause them to bolt before we can harness an effective team of live and creative ones together.

I recently gave a presentation to the Local Government Managers Conference on Sustainable Communities where I use the analogy of flogging dead horses in order to get a laugh and to highlight the fact that we keep doing the same things to Aboriginal people over and over again (under different names of course) despite the fact that things don't get better for the mass of them, and do get decidedly worse for many. I made the point that even six dead horses harnessed together and flogged still have a horsepower of zero, despite the fact that the flogger might be happy in his or her task.

In this regard, let me begin by confronting you with the fact that the Indigenous incarceration rate in Western Australia has trebled in the last two decades and is the worst in the world. I am reliably informed that the likelihood of an Aboriginal person being incarcerated in this State is 27 times that for a non Indigenous person.

This can't simply be due to the fact that our police have become more efficient in response to various law and order agendas over that time. Nor can it simply be due to an Aboriginal male predilection for child abuse- a fascist and racist assumption that has been heaped on hapless communities in the Northern Territory and in Western Australia.

It must have something to do with the fact that Aboriginal people have become more alienated from the governance framework, or lack of framework, in which they find themselves. This, I might add, has all been happening at the same time as this State has gone through a massive growth in personal wealth.

All the portents are that it will get decidedly worse, not simply in linear terms, but in a compounding, exponential way as all sorts of new multipliers, including demographics and dysfunction, come into play. Those who know this from intimate contact with the problems, including the State's judicial officers, exist in what I describe as a state of despair. What to do about it? If this is not a matter of great public policy concern I don't know what is.

You will all know that we live in interesting times – that is the great Chinese curse! Apart from the global economic downturn reflected in this week's federal budget, the shift in global power from the North Atlantic and the very real problems of climate change are massive and converging components that have to be addressed by public policy.

I have already hinted at the non linearity of the effects of these changes and others such as changing demographics, technology and social alienation. Without professing to any economic expertise, it seems logical that bond rates have to rise in response to orders of magnitude in the level of debt and in the perception of the increase of risk in the money markets. The inflationary effects of this and stagnation in investment due to the restricted availability of capital obviously haunts the corridors of power.

These are issues of both magnitude and tempo. They are occurring at such a rate that they offer a severe challenge to the forms and processes of governance that we employ. We are all getting the messages about all being in this together and, despite the benign dimensions of the recent budget, pulling in our belts. It brings into question the resilience of our society and the capacity to respond to unforeseen consequences – the strategic surprises, of which there are sure to be many.

We have long cherished the view that democracy in its western liberal form offers the greatest flexibility in bringing people together and using their creativity to divine a course to safer and more sustainable territory. From time to time there have been expressions of preference for more guided forms of governance such as those employed in places like the city state of Singapore but these have just as quickly been seen for the flawed and self serving structures that they are.

Right now there would be cause to view the relative success of the essentially technocrat driven Chinese economy as an example of the advantages a more guided form of economic and social governance. But it is clear that, alongside their traditional pride in both the enduring and growing pre-eminence of their nation, the Chinese people long for greater freedom of expression and more certainty in their personal lives than the whim of the technocratic elite can offer.

The western liberal and democratic alternative is based on many premises. These really amount to people having a stake in a society that ensures them a sense of personal wellbeing in a sustainable environment that meets both their spiritual and physical needs. It is widely recognised that you have to embrace all your people in such an approach so that everyone has a chance to contribute to the common wealth of the society, rather than some being left outside and made to feel they are a negative drag on those around them. Such a characteristic becomes even more imperative in times of crisis such as periods of economic, climate, health and security turmoil and strife characteristic of our times.

Much and all as we might like it to be otherwise, Aboriginal people occupy such an alienated position in Australian society. Their circumstances are widely regarded as a source of national shame and blight on the sort of image we want to impart to the wider world and the region in which we live in particular. That's why we talk so much about overcoming disadvantage and closing the gap. In fact, it is why we have been talking about it for years without much success.

Relatively large sums of money have been committed to this cause and even larger sums are planned for the future through the COAG processes now in train. As with the Indigenous incarceration rates, the results speak for themselves. What seems to be missing from this approach is a philosophical framework which inspires and commits Aboriginal people to a relationship that works.

This is not all negative as many of you will realise. There are many committed people and truly positive developments that should inspire some optimism about the way ahead, as well as some negative trends.

First let's consider the positive developments:

*The Apology of February for one thing, must be considered as a positive development of immense power. For the first time an Australian leader confessed to the great injustice done to Aboriginal and Torres Strait Islander people, *acknowledging their prior occupancy of the continent and thereby beginning the process of national redemption that makes possible the sort of partnership that resides in the minds of Australia's first people. In the process of apologizing Prime Minister Kevin Rudd acknowledged that the ancient cultures were a profoundly important part of our national heritage, opening up the possibility of a partnership* founded on the preservation of those cultures rather than their demise.

*Secondly, all Australian governments have committed themselves to reinstituting some form of Indigenous voice in the form of Advisory Councils. They do not exist at present, primarily because of the difficulty of establishing their legitimacy as grassroots representatives. Without such legitimacy, I think it is fair to say, the entire process would lack substance.

There has been extensive consultation with Indigenous people in the process of establishing acceptable solutions that represent diverse cultures as well as geographic regions. It is going to be very interesting to see what emerges from this process, but I think it is fairly safe to say that it will be dependent for its success on generating a voice in the places where people live, rather than simply a disembodied gathering of the usual suspects. The logistics of doing this could prove very challenging and it will call for innovative solutions at the regional and national level in which you will all be involved.

*Another positive development in this period has been the emergence of a regionally empowered Government in the state of Western Australia. What do I mean by that? The National Party sitting on the cross benches by virtue of an election platform of shifting power and resources back to the regions is quite a remarkable outcome – one that could clearly be short lived if it is not seen to be delivered in a constructive and sustainable way. Royalties for the Regions is welcomed with great optimism by those who live in rural Western Australia, and with some hope by Aboriginal people who have been persuaded that it is also in their long term interest.

In view of the fact that, prior to the 2008 Election, the regions were deliberately being disempowered in the interests of consolidating political power along the railway line from Joondalup to Mandurah, such an outcome must clearly be seen as a last roll of the dice. It is against the odds and fragile.

Despite that, it has to be seen as positive for both Aboriginal and Regional Western Australia and an opportunity to develop regional governance mechanisms that will consolidate the long term interests of the regions and the people who live in them. This is where the development of shared visions and regional partnerships that can be sustained becomes so important. Otherwise the risk continues of regional development, or lack of development, being imposed from outside by people, including foreigners, who have no commitment to those regions other than the exploitation of their natural resources to generate personal wealth and royalties.

*Another significant positive development in Western Australia is the advent of the Indigenous Implementation Board with its charter to change the way Government engages with and delivers services to Aboriginal people in this state. As Chairman of that Board you would expect me to recognize it as a positive change – otherwise, why would I and other members of that Board have anything to do with it. We are all people who have called for fundamental changes in the way Aboriginal people are embraced by the State and all of us have made it clear that our commitment will only endure if those changes are made.

There remains much confusion about the role of the Board and its relationship to all the other instruments of Indigenous policy development and delivery, and it is therefore important that I should take the opportunity to tell you in detail about its terms of reference, membership and emerging strategy.

*Let me begin by emphasising what the IIB is not. Firstly, the IIB is not the Indigenous voice in Western Australia. The Indigenous voice will emerge through the Aboriginal Advisory Council and regional bodies connected to grassroots Aboriginal organizations.

*Secondly, the IIB is not established in statute having no statutory authority and therefore no financial delegations. These continue to reside in the Ministers of State and their departments.

So let me tell you what the IIB is. It is a Board* consisting of four non Indigenous people and five Indigenous people all of whom have vast experience with both the plight of Aboriginal people, the commercial world and the institutions and processes of government.

The IIB is what I describe as a conduit for the Aboriginal voices, facilitating their recognition and resonance within both the political and bureaucratic arms of government, and with business. The Board has considerable moral authority – the authority to express a view and to be heard.

Its Terms of Reference* are broad and expansive – open to interpretation on the basis of the nature of the information that emerges from its engagement with government agencies and Aboriginal people in the places where they live. The essence of the Terms of Reference is contained in these two paragraphs* four and five:

4. Driving fundamental policy shifts through stronger and more accountable Government governance, building trust through consistency and commitment.
5. Building effective participation of Indigenous people, and the broader WA leadership, supporting effective community.

Importantly, from the perspective of this conference, the IIB has included in its specific tasks*:

- Developing, with State agencies, clear overarching regional action plans to guide current and future activities linked to bilateral arrangements and State investment priorities.

You will see that this Terms of Reference demands that the Board develops a close relationship with those Departments that have the carriage of changing the lives and circumstances of Aboriginal Western Australians. In our view, that is every department. This is our interpretation of where it sits in the structures of governance in Western Australia. * Note the relationship to the two statutory bodies, the Aboriginal Advisory Council and the Aboriginal Affairs Coordinating Committee – the Directors General Group.

The object is to build alliances to this end and to ensure that the relationship is not adversarial in nature, but one that is based on shared vision and objectives. In a sense, the Board is about brokering a new relationship between Aboriginal people and those who have statutory responsibility for their wellbeing.

The Board has been very deliberate in getting its own purpose and strategy clear before proceeding to build these alliances. It had to have a strategic conversation with itself in order to agree the framework for engagement. Out of the conversation came a strategic framework* that is based on the agreed understanding that:

Aboriginal people and their culture are critical to the future of our State. Their unique knowledge is the defining element in building a sustainable future for Western Australia.

On the basis of this belief and this understanding, the Indigenous Implementation Board will drive the empowerment of Aboriginal people to create their own future. This provides the foundations on which strong partnerships can be built to bring about positive outcomes for all of us.

To achieve these outcomes the Board will catalyse a fundamental rethink of Government policy. *It will move swiftly to:

- enable the Aboriginal design and delivery of services
- ensure the continuation of a vibrant living culture
- refocus regional governance to build sustainable communities, economies and environments
- engage all sectors

This is the Board's strategic vision. To begin the process, the Board has developed an action agenda for the first 100 days which includes*:

- starting regional dialogues, commencing in the Kimberley in March 2009 and moving across the State
- facilitating meetings of senior Aboriginal law men and women to advise the Board
- ensuring the development and empowerment of indigenous leaders
- commencing the redesign of Government process and decision making in partnership with the Aboriginal Affairs Coordinating Committee (AACC) and Aboriginal Affairs Advisory Committee (AAAC).

The success of the Board depends on having a vibrant and capable Secretariat*, one that is designed with a deep interdependence with the Board, being both a way of amplifying and executing the will of the Board as well as being an important conduit for Aboriginal voices across the state to reach the Board.

This is where the Department of Indigenous Affairs comes into this equation. It becomes the Secretariat and changes its shape and nature to do so. The transformation of DIA into that Secretariat is the key to the Board's success.

The statutory role of the Director General of DIA as the Chairman of the Aboriginal Affairs Coordinating Committee - the Directors General Group with the responsibility for the delivery of services to Aboriginal people - is the most powerful sustained link in this process.

All these things are happening and three weeks ago, the Board began its dialogue with the Directors General to begin to get us all on the same sheet of music with the same strategic vision. In the near future we will workshop our approach to this so that we breakdown the silos and develop shared holistic objectives that can be translated into the regions for action.

At the same time we have begun to shape the conversations in the regions with our key dialogue partners – the Aboriginal people. Ultimately, those conversations have to embrace non Indigenous people, business and government in those regions. We would want to move to a shared dialogue as early as possible. This is what shared vision and partnership is all about.

We began our conversation with the Kimberley people in March and have initiated such conversations with the Pilbara communities and with the Noongar Nation. The word is out and we are now beginning to receive approaches from other regions to initiate conversations there. The key issue in this is that Aboriginal people come together to discuss their needs, visions and governance requirements first before the IIB engages with them as a Board. With the Kimberley conversation for example, I and members of the Secretariat attended as observers, speaking when we were required, but not being part of the conversation itself.

The conversation was both high quality and philosophical, reaching heights of analysis that, from my experience, are missing from the conversations that take place in the centres of non Indigenous power. We shouldn't be surprised by this, because this is the voice of experience. It evokes a perspective that can't possibly be reached and enunciated in the bureaucratic centres where COAG policy is being formulated and media releases are being shaped on behalf of political leaders.

These conversations are the beginning of the Board's mission to engage Aboriginal people more effectively in the processes that will determine their destiny and the future of their children. Eventually we would hope to join Indigenous and non Indigenous communities together in sharing a vision for the future of the regions in which they live. Nevertheless, it is critical that the Indigenous voice is empowered first and that trust is built up within and between communities and with the Board. Without such trust it will be difficult to bring all these elements together.

This process of empowerment can best be described as the fostering of Indigenous governance. I have to tell you that very few resources have been allocated to Indigenous governance in all the new initiatives that have been discussed in recent times – although much is being made of forming partnerships with Indigenous people in the places where COAG intends to create its new order. In fact, it is possible that the chosen locations earned their status by virtue of the fact that there have been some governance initiatives there due to past crisis management activities – place like Fitzroy Crossing, Halls Creek and Beagle Bay.

Importantly, from the Board's perspective, there is no money for regional governance initiatives, despite the fact that initiatives like royalties for the regions and the outcomes of the Browse Basin gas hub negotiations demand a regional engagement. The Board is committed to changing this, as you will have observed from its strategy. More to the point, the Board sees this as the best way to get at both the cultural and economic development requirements of its strategy.

I am very conscious of the fact that what we are talking about here is fundamental change in the structure of governance in this state. Fortunately for all of us, we have arrived at a point where people are beginning to recognise that the old philosophies of one size fits all won't serve us well in the complex and non linear world we are confronting. People often think that that complexity is emerging from the rapid development of technology, social change, market forces and things like climate shifts. But that complexity has always existed for Aboriginal people who have found our values and activities confusing to say the least.

We need them now as we try to reconnect with the landscape in a way that will allow us to sustain an Australian way of life on this continent and not sacrifice it all to the market forces driven in the interests of other landscapes and other cultures. Like everyone else, I hope there is going to be four and a half percent growth in the out years of the federal budget too, but, just in case there isn't, I would like to see a more realistic, humanitarian, inclusive and resilient society that is creative and capable of generating the full potential of all its people.