Improving Indigenous Land Management Governance

How Indigenous Directors and Board members might be better equipped to deal with the financial and management responsibilities placed on them

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A number of Indigenous economic development and conservation projects are struggling for reasons that include poor governance. This occurs even where land tenure and conventional property rights apply. I am aware of a communities that hold conventional pastoral leases and have other assets in ASIC corporations but they fail because Indigenous Directors and Board members could be better equipped to deal with the financial and management responsibilities placed on them. A relatively simple rights-based approach is not enough and alone will create even more hardship and pain.

Traditional knowledge and practice coupled with science and latest technology can enable food production, wildlife conservation, tourism and carbon sequestration. Delivering the potential depends, amongst other things, on strong financial responsibility and innovative management. Traditional knowledge and practice coupled with science and latest technology can enable food production, wildlife conservation, tourism and carbon sequestration. Mentoring support for Indigenous land management directors would assist them more effectively achieve both their economic and cultural goals and environmental objectives for all Australians.

Australian government departments responsible for land management and conservation programs have shown concern but little capability or willingness to provide the level of support necessary to improve corporate governance and leadership. The comment applies to the Indigenous Protected Area (IPA) program, to the Indigenous Land Corporation in its responsibility for Indigenous pastoral properties, co-managed National Parks, numerous employment and industry development programs and those responsible for the disbursement of substantial monies held in trust as mining royalties and park entrance fees.

For government agencies to turn a blind eye to directors not performing the duties for which they are being paid is racism in the guise of political correctness. Especially in remote areas, board members with low literacy and numeracy capabilities are in effect asked to comply with ASIC and ATO regulations without explanation of their corporate responsibilities. It is wrong to maintain systems that expose them to liabilities about which they know nothing. All too often CEOs of Indigenous Corporations do not keep adequate Board records or minutes, or provide accurate briefings on the ‘money story’. They often accept minimal supervision and do not coach their Directors or encourage enquiry.

Native Title Agreements are potentially setting Indigenous communities up with assets that could lead to greater economic and cultural self-determination. It would be a national tragedy if those assets are not invested well. Together with Indigenous Business Australia, David Murray advocates the adoption of the Santiago Principles which he helped develop. The principles are a voluntary guide of 24 checks and balances designed to ensure those charged with protecting and building a nation’s wealth for future generations invest in ways that are properly aligned with the purpose for which the funds were set aside.

Poor governance of pastoral properties owned by Indigenous communities is also of concern to State government agencies that are responsible for administering pastoral leases. Ministers can be in the invidious position of being under pressure to reissue pastoral leases to dysfunctional organisations. Although support has long been provided for the practical aspects of property management and the application of science and innovation, there has been little guidance on financial and governance issues.

An example of governance failure of an Indigenous Protected Area (IPA) has occurred on Angas Downs in the Northern Territory. By 2012, the property was making good progress implementing its plan of management, which I had helped prepare, and under which the owners from Imanpa were pressing to realise the potential of their property for tourism, employment, conservation and the protection of culture. However due to poor financial management of other enterprises which they owned, and inadequate scrutiny by Indigenous directors, the management company incurred substantial debts. When concerns about the management company became apparent the Australian Government cancelled the contract which was supporting the IPA and both the conservation and employment programs ceased. This led to significant losses by the property overseer because in preceding months he had paid for the operation of the property out of his own pocket in anticipation of reimbursement. A similar situation occurred for me in my capacity as land management advisor for the property. There have also been losses of contributions by a Rotary club.

The Central Land Council stepped in in 2013 and the employment program was reactivated. However the CLC has not been successful in getting the community back on track to independence and self-reliance. Because of lack of leadership and support for management processes, no progress has been made in reconstituting independent corporate governance.

The CLC’s primary role is to represent Aboriginal people of central Australia and it seeks to obtain consensus on community views. It does not have a role in corporate governance or mentoring directors; nor could it do so independently in this case because it has become the management agency and a servant of the community under contract to the Government.

Improved governance is needed and corporate mentoring for Indigenous directors should be a policy and program priority for Indigenous affairs. Mentors are currently provided for students, apprentices and business enterprise leaders but not for corporate directors. At the moment no agency or authority accepts responsibility not withstanding that Governments are inducing Indigenous communities to take on more responsibility for the work they have traditionally undertaken.

In making this call, I am not seeking to denigrate Indigenous directors at Imanpa or elsewhere but wanting to strengthen them and help them avoid the opprobrium that comes with failure of their enterprises. Mentors would need to be racially and culturally sensitive because directors are often constrained by culture to not wanting to speak up because of seniority, age, or gender.

Mentors would also need to be strong to address the internecine nature of many Indigenous corporate disputes[[1]](#footnote-1) such as been underway in the APY Lands for a decade.

Preferably mentors would be Indigenous. The program of the Jawun Indigenous Corporate Partnerships has many aspirations and approaches to be emulated and form a model. Melbourne Business School has in-principle support from a range of parties, including IBA, to run a corporate governance and commercial acumen and leadership course for CEO's of Indigenous organisations.

In addition, I am aware of many experienced lawyers, accountants, scientists and educators who would be ready to assist with their time and provide pro-bono mentoring, perhaps as non-executive Directors. They should participate only if invited and support would be tailored to the need. Establishing a relationship of trust requires time. Aboriginal Australia has a long history of top down program delivery and outsiders parachuting in with ‘the answers’.

Addressing the needs of communities in the Ngaanyatjarra Pitjantjatjarra Yankunytjatjara Region could be a trial for providing support. Improved Governance of Angas Downs and other IPAs could be a model which if successful could have wider application.

It is essential that a program such as I have outlined accompanies moves to transfer conventional property rights to more Indigenous corporations and individuals. Not to do so is exposing the Indigenous estate to sovereign risk.

1. Not that such fights are exclusive to Indigenous corporate structures, to wit, Hancock vs Reinhardt [↑](#footnote-ref-1)