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What do young fellas reckon? Exploring the experiences of Aboriginal and Torres Strait Islander youth in native title

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Introduction

Young people have the ability to transform their communities from cycles of generational trauma, dysfunction and welfare dependency, to cycles of generational empowerment, prosperity and success.

–Ninielia Mills, Manager, Community Development Unit, Nyamba Buru Yawuru Ltd¹

The long-term success of native title hinges on the ability of younger generations of Aboriginal and Torres Strait Islander people to carry forward the rights and interests hard-won by their elders. This is widely recognised within Aboriginal and Torres Strait Islander communities and evidenced through a myriad of research reports, strategic plans, mission statements and rulebooks which identify supporting young people to assume leadership and decision-making roles in their communities as a key objective.² Yet little is known about the experiences, ambitions and views of young native title claimants and holders. To date, there is a paucity of research conducted with younger generations of Aboriginal and Torres Strait Islander people in relation to native title in Australia and an associated lack of ongoing support and engagement invested in these future leaders.³

In response to this gap, the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) embarked on a pilot research project into youth experiences of native title. The purpose of this pilot was to seek out young Aboriginal and Torres Strait Islander people who are currently or hope to be involved in the native title sector. Their stories and perspectives, whether as professionals or community representatives, need the opportunity to be heard. Do Aboriginal and Torres Strait Islander young people feel prepared to assume leadership positions? What are the unique challenges they face? What are their visions for the future of their communities? And how does native title fit into that vision? This paper explores these questions and considers what the views of the young Aboriginal and Torres Strait Islander participants may mean for the future of native title.

This paper will first reflect on why this research has been undertaken before providing a brief overview of native title in Australia. It will then explain the context of the research before analysing key themes that arose from interviews. This includes connection to country and culture; access and distribution of native title knowledge and information; and active and ongoing support and mentorship. It will finish by considering how these emerging trends may affect the future of native title in Australia and identifying areas for further research.

1 N Mills, speech to the National Native Title Conference, convened by the Australian Institute of Aboriginal and Torres Strait Islander Studies, Broome, 5-7 June 2018, <<https://aiatsis.gov.au/publications/presentations/culture-foundation-our-identity-mabu-liyan-and-other-lessons>>.

2 T Bauman, L Strelein & J Weir (eds), *Living with native title: the experiences of registered native title corporations*, AIATSIS Research Publications, Canberra, 2013, viewed 23 July 2018, <<https://aiatsis.gov.au/sites/default/files/products/monograph/bauman-strelein-weir-living-native-title-book.pdf>>; T Bauman, et al, *Building Aboriginal and Torres Strait Islander Governance: Report of a Survey and Forum to Map Current and Future Research and Practical Resource Needs*, AIATSIS Research Publications, Canberra, 2013; *Indigenous Governance Toolkit*, Australian Indigenous Governance Institute, viewed 23 July 2018 <<http://toolkit.aigi.com.au>>; A Fordham & R Schwab, *Indigenous Youth Engagement in Natural Resource Management in Australia and North America: A Review*, CAEPR Working Paper series, no. 85, Centre for Aboriginal Economic Policy Research, Australian National University, 2012.

3 A Wighton & D Smith, *Common Roots, Common Futures: Preliminary Report into Indigenous Governance Education and Training in Australia*, Australian Indigenous Governance Institute, 2018.

Background

The catalyst for this research project arose out of discussions held at the National Native Title Conference Youth Forum in 2017.⁴ The youth forum is convened to provide a safe space for young Aboriginal and Torres Strait Islander people aged between 18 and 35 years to share their knowledge and experiences of native title, connect with their peers and support each other in what is often a complex and challenging domain to navigate. A common experience shared at successive youth forums is that many young people feel disconnected from their native title claims or organisations, communities and land.⁵ Despite the diverse age and geographical distribution, delegates shared similar issues and concerns, primarily expressing a lack of knowledge, meaningful engagement and education and training in the sector.⁶ As a first step, forum delegates identified a need to better understand and engage with youth perspectives in the native title sector. Delegates identified a range of pressures and challenges that they face, which formed the basis of this initial research looking at youth experiences in relation to native title.

Ensuing research uncovered a distinct lack of literature concerning the relationships of young people to native title.⁷ There exists some literature relating to Indigenous young people and community governance more generally, though these studies tend to focus on health and wellbeing, education, land and water management and employment.⁸ The transmission of cultural knowledge in contemporary Indigenous cultures is a global area of study with a larger research base including important contributions from the Australian context.⁹ There remain significant gaps in literature with a focus on supporting Indigenous youth in critical areas such as succession planning within Indigenous organisations in Australia. At the time of this research, the Indigenous youth forum at the National Native Title Conference represents the existing engagement with this field at a national level. The AIATSIS 'Youth Engagement in Native Title' project is the first to investigate youth engagement and succession planning.

The native title sector

Native title is the recognition by the Australian legal system of Aboriginal and Torres Strait Islander peoples' ownership of land and waters arising from their continuous connection to country. The rights and interests are derived from the system of traditional laws acknowledged and customs observed, by

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- 4 The AIATSIS Youth Engagement in Native Title project received ethics clearance by the AIATSIS Ethics Committee in February 2018.
 - 5 T Pearson & S Little, 'Report on the Indigenous Youth Forum', *National Native Title Conference* convened by the Australian Institute of Aboriginal and Torres Strait Islander Studies, Darwin, 1-3 June 2016.
 - 6 Pearson & Little, 'Report on the Indigenous Youth Forum'.
 - 7 G Buchanan, 'Gender and Generation in native title: Director demographics and the future of prescribed bodies corporate', *Land, Rights, Laws: Issues of Native Title*, vol. 6, no. 3, March 2015, represents the extent of the literature directly relating to youth issues or engagement in native title.
 - 8 Fordham & Schwab, *Indigenous Youth Engagement in Natural Resource Management in Australia and North America: A Review*; J Hunt & D Smith, *Building Indigenous community governance in Australia: Preliminary research findings*, CAEPR Working Paper series, no. 31, Centre for Aboriginal Economic Policy Research, Australian National University, 2006; J Hunt et al (eds), *Contested Governance: Culture, power and institutions in Indigenous Australia*, research monograph no. 29, Australian National University Press, 2008; *Indigenous Governance Toolkit*, Australian Indigenous Governance Institute, 4.4 Youth leadership and succession planning, viewed 23 July 2018, <<http://toolkit.aigi.com.au/toolkit/4-4-youth-leadership-and-succession-planning>>; Reconciliation Australia, Indigenous Governance Awards website, viewed 23 July 2018, <<https://www.reconciliation.org.au/iga/>>; I Kral, *Talk, Text and Technology: Literacy and Social Practices in a Remote Indigenous Community*, Australian National University Press, 2012; J Stuart & P Jose, 'The protective influence of family connectedness, ethnic identity and ethnic engagement for New Zealand Maori adolescents', *Developmental Psychology*, vol. 50, no. 6, p. 1817, 2014; R Schwab, *Kids, skidoos and caribou: The Junior Canadian Ranger Program as a model for re-engaging Indigenous Australian youth in remote areas*, no. 281, Centre for Aboriginal Economic Policy Research (CAEPR) 2006.
 - 9 J Douglas, *Kin and Knowledge: the meaning and acquisition of Indigenous Ecological Knowledge in the lives of young Aboriginal people in Central Australia*, PhD thesis, The Northern Institute, Charles Darwin University, 2015; I Kral, *Generational Change, Learning and Remote Australian Indigenous Youth*, CAEPR Working Paper series, no. 68, Centre for Aboriginal Economic Policy Research, Australian National University, 2010; J McCarter et al, 'The Challenges of Maintaining Indigenous Ecological Knowledge', *Ecology and Society*, vol. 19, no. 3, 2014.

societies that have remained intact since the assertion of British sovereignty. The nature and extent of native title is determined by the rights and interests that are capable of recognition by the common law, which have not been extinguished by grants of inconsistent interests.

Large areas of the land and waters subject to native title claims and determinations are resource rich and access is highly sought after by various industries. Part 2, division 3 of the *Native Title Act 1993* (Cth) contains procedures for dealing with proposed actions or developments that affect native title. Depending on the type of act proposed, the proponent must notify, consult or negotiate an agreement with the native title party. Significantly, the native title party cannot veto development, such as mining, on their land¹⁰.

Resolving native title claims, whether by litigation or negotiation is a lengthy process. This is due to the other interests involved, including government and industry, and the standard required to establish proof in native title claims. The burden of satisfying the evidentiary requirements falls to the native title claimant group and is time and resource intensive. The National Native Title Tribunal (NNTT) reported that, between 1 January 1994 and 31 December 2011, the average time taken to reach a consent determination was six years and three months.¹¹ The average time for a determination after litigation was seven years.¹² It is worth noting that these figures include determinations of unopposed applications (mostly non-claimant applications to satisfy requirements of land rights regimes and the interests of other parties) with an average time frame of 12 months.¹³ At 31 December 2011 almost half (48 per cent) of the 443 active claimant applications were more than 10 years old.¹⁴ At 31 December 2018, 35 per cent of the 173 active claims were over 10 years old and 60 per cent were more than five years old.¹⁵ The three longest-running active claims, Purnululu, Urapunga Township and Harris Family claims were filed in 1994, 1995 and 1996 respectively.¹⁶

Indigenous people continue to call for the expeditious resolution of outstanding claims. In 2012, the late Brian Wyatt, former CEO of the National Native Title Council (NNTC), said 'we are tired and weary of our old people dying before decisions are made on native title'.¹⁷ Judges of the Federal Court with carriage of native title cases are also cognisant of the issue. For example, Justice Berna Collier commented on the:

'...insidious consequence of delay in resolution of applications...the fact that, in many cases before the Court, senior elders in native title groups have died while waiting for their application to be determined. These elders are invariably the repositories of traditional knowledge in respect of claims.'¹⁸

Organisations legally representing claim groups have reported that state government-imposed standards for connection materials are in some cases higher than those expected by the Federal Court and are enforced even where the outcome is to be agreed rather than litigated.¹⁹

Nevertheless, in the face of these burdensome requirements, as of 31 December 2018 recognised native title covered 43 per cent of mainland Australia.²⁰ Registered native title applications awaiting resolution covered an additional 25 per cent, with further applications yet to be lodged.²¹

10 *Native Title Act 1993* (Cth)

11 National Native Title Tribunal (NNTT), *National Report: Native Title* (February 2012) p. 2.

12 National Native Title Tribunal (NNTT), *National Report: Native Title*.

13 National Native Title Tribunal (NNTT), *National Report: Native Title*.

14 National Native Title Tribunal (NNTT), *National Report: Native Title*.

15 National Native Title Tribunal, Search Register of Native Title Claims, viewed 4 February 2019, <<http://www.nntt.gov.au/searchRegApps/NativeTitleRegisters/Pages/Search-Register-of-Native-Title-Claims.aspx>>.

16 National Native Title Tribunal (NNTT), Search Register of Native Title Claims.

17 B Wyatt, interview on PM, ABC Radio, 6 June 2012, <<http://www.abc.net.au/pm/content/2012/s3519707.htm>>.

18 Justice Berna Collier, speech to the Native Title Seminar Native Title Seminar, Brisbane, 27 May 2011.

19 NTSCORP, submission to the Australian Institute for Aboriginal and Torres Strait Islander Studies' *Commonwealth Native Title Connection Policy Research Project*, 2014.

20 This figure is approximate due the unavailability of data excluding sea claims. Source: National Native Title Tribunal (NNTT), Native Title Vision, viewed 4 February 2019, <<http://www.nntt.gov.au/assistance/Geospatial/Pages/NTV.aspx>>

21 National Native Title Tribunal (NNTT), Native Title Vision, National Overview Attribute Table, viewed 4 February 2019, <<http://www.nntt.gov.au/assistance/Geospatial/Pages/NTV.aspx>>.

Due to the common law position that groups of individuals cannot hold title, successful native title determinations acquire legal personality through the establishment of corporations known as Registered Native Title Bodies Corporate (RNTBCs).²² RNTBCs can apply for basic and capacity building funding through Federal Government funding programs, though many are still severely lacking in resources and struggle to meet their statutory obligations.²³ The median income for all RNTBCs in 2015-16 was \$50,000, increasing from \$0 in 2010-11, though 49 per cent of RNTBCs did not earn any income.²⁴ A lack of funding has a significant impact on the ability of organisations to develop effective governance structures and adequate engagement with native title holders, which can restrict the investment in developing young leaders.

As of 31 December 2018 there were 197 RNTBCs that hold and manage recognised native title rights and interests on behalf of the common law native title holding groups.²⁵ Those corporations were also designed under the *Native Title Act* to provide a contact point for parties wishing to gain access or do business on native title lands. RNTBCs are subject to compliance obligations pursuant to the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act) and are regulated by the Office of the Registrar of Indigenous Corporations (ORIC). Beyond their statutory functions and obligations, RNTBCs may undertake activities that respond to the broader aspirations of the native title holding group, including cultural activities, commercial projects and service delivery.

Leveraging native title rights for the benefit of communities is complicated by the overlapping land tenures of a federal system of government. The responsibility for land administration falls within the remit of local, state and territory governments, whereas the *Native Title Act* is a Federal statute. Unlike most land titles, native title is communally held and alienable only to the Crown. As a result, the land dealing provisions of the *Native Title Act* diminish the ability of many native title groups to pursue development. Tenure reforms proposed by governments to address the difficulties in deriving benefit from native title lands and waters often force Indigenous communities to choose between their rights in land and economic development. Former Social Justice Commissioner Mick Gooda commented in 2016 that there are still 'enormous challenges' and barriers faced by Indigenous people in deriving benefit from native title rights and interests due to overlapping legal duties and administrative red tape.²⁶

Though it may be some time before the full extent of native title is determined, it is clear that it already plays an integral role in the way that lands and waters are managed, developed and enjoyed, by Aboriginal and Torres Strait Islander people as well as non-Indigenous Australians. A regime as comprehensive and complex as native title presents a significant challenge in its ongoing management and governance. It is vital to now consider who is expected to continue this work and how.

The population profile

The Aboriginal and Torres Strait Islander population in Australia has a distinct demographic profile, with higher fertility and lower life expectancy compared with non-Indigenous Australians. The 2016 Census indicated that more than half (53 per cent) of Aboriginal and Torres Strait Islander people were aged under 25 compared with 31 per cent of non-Indigenous people, and those aged 65 years and over made up a mere 4.8 per cent of the population, compared with 16 per cent of the non-Indigenous population.²⁷

22 M Langton & A Frith, 'Legal Personality and Native Title Corporations: The Problem of Perpetual Succession' in L Strelein (ed), *Dialogue about Land and Justice: Papers from the Native Title Conference*, Aboriginal Studies Press, 2010, pp. 170-171.

23 P Faye McGrath, C Stacey & L Wiseman, 'An overview of the registered native title bodies corporate regime', in T Bauman, L Strelein & J Weir (eds), *Living with native title: the experiences of registered native title corporations*, Australian Institute for Aboriginal and Torres Strait Islander Studies Research Publications, 2013.

24 B Burbidge & T Pearson, 'Economic Development of Native Title Corporations 2010/11 – 2015/16', Australian Institute for Aboriginal and Torres Strait Islander Studies Research Publications, 2019.

25 National Native Title Tribunal (NNTT), Native Title Vision, National Overview Attribute Table, viewed 4 February 2019.

26 M Gooda, *Social Justice and Native Title Report 2015*, Australian Human Rights Commission, p. 69.

27 Australian Bureau of Statistics, Aboriginal and Torres Strait Islander population, 2016, viewed 11 July, 2018. <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Aboriginal%20and%20Torres%20Strait%20Islander%20Population%20Article%12>>.

Another significant feature of the population profile is the catastrophic levels of incarceration. As of June 2017, Aboriginal and Torres Strait Islander people over the age of 18 made up just 2 per cent of the population, and yet accounted for over a quarter (27 per cent) of the total prisoner population. The proportion of adult prisoners who identified as Aboriginal and Torres Strait Islander ranged from 9 per cent in Victoria to 84 per cent in the Northern Territory.²⁸ At an Estimates Committee hearing in June 2018, the Department of Territory Families reported that all youth in detention in the Northern Territory are Indigenous.²⁹ The issue of Indigenous incarceration rates was highlighted in the 2017 'Uluru Statement from the Heart', a declaration by the First Nations Constitutional Committee calling for a First Nations voice in the Australian constitution:

Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are alienated from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future.³⁰

Native title researcher Geoff Buchanan identified factors influencing RNTBC director demographics and implications for native title governance.³¹ His research has shown that 'as cultural leaders, elders tend to delegate corporate leadership to middle-aged people who have the necessary education, energy and experience.'³² What is not captured in the literature is the contribution of younger generations, nor the availability and capability of younger generations to contribute to this space.

More comprehensive research is required to capture the full extent of involvement of younger generations as there is limited publicly available data on the rates of young people who are employees of RNTBCs, rangers, RNTBC members or non-member traditional owners nationally. This impedes on the ability of the native title sector to develop effective, coordinated programs to engage and train young people. Further, it impacts on the ability of organisations to increase the pool of knowledgeable community members capable of taking up decision-making and leadership roles in native title organisations. This pilot represents a first step in responding to this gap. Disseminating existing models of youth participation and succession planning in native title organisations will form the basis of the next stage of this project.

The research

This study was grounded in two research approaches: Indigenous research methods and qualitative research methods.

Historically, Indigenous peoples' experiences of research have been overwhelmingly negative.³³ Research about and even for Indigenous peoples has been performed primarily by non-Indigenous people.³⁴ This has led in part to the social, political, economic and cultural isolation of Indigenous peoples from the institutions that define the rules that they must live within.³⁵ As more and more Indigenous peoples have become fluent in the language

28 Australian Bureau of Statistics, *Aboriginal and Torres Strait Islander prisoner characteristics*, 2017, viewed 11 July 2018. <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2017~Main%20Features~Aboriginal%20and%20Torres%20Strait%20Islander%20prisoner%20characteristics~5>>.

29 Legislative Assembly of the Northern Territory, Estimates Committee, *Corrected Transcript - Day 6 - 20 June 2018*. <https://parliament.nt.gov.au/__data/assets/pdf_file/0019/525322/Corrected-Transcript-Estimates-2018-Day-6-20-June-2018.pdf>.

30 Referendum Council, *Uluru Statement from the Heart: Statement of the First Nations National Constitutional Convention*, viewed 27 July 2018, <https://www.referendumcouncil.org.au/sites/default/files/2017-5/Uluru_Statement_From_The_Heart_0.PDF>.

31 Buchanan, 'Gender and Generation in native title: Director demographics and the future of prescribed bodies corporate'.

32 Buchanan, 'Gender and Generation in native title: Director demographics and the future of prescribed bodies corporate', p. 14.

33 L Smith, *Decolonizing Methodologies: Research and Indigenous people*, 2013, Zed Books Ltd.

34 Smith, *Decolonizing Methodologies: Research and Indigenous people*.

35 L Rigney, 'Internationalization of an Indigenous Anticolonial Cultural Critique of Research Methodologies: A Guide to Indigenist Research Methodology and its Principles', *Wicazo sa review*, vol. 14, no. 2, pp. 109-12; R Paulani Louis, 'Can you hear us now? Voices from the margin: Using Indigenous methodologies in geographic

of research, there has been a growing need to promote an Indigenous-led approach to research.³⁶ The primary objectives of Indigenous research methods are to value, promote and legitimise Indigenous systems of knowledge and understanding, and to conduct research in an open and respectful manner.³⁷ Indigenous research methods are founded in high expectations of participants and ensuring that research is carried out in a mutually beneficial and ethically sound fashion.³⁸ Pualani Louis, a Native Hawaiian academic argues that 'Indigenous research methodologies are alternative ways of thinking about research processes...[with] fluid and dynamic approaches that emphasise circular and cyclical perspectives'.³⁹

Qualitative research is an appropriate method when 'examining various social settings and the individuals who inhabit these settings'.⁴⁰ The strength of qualitative research is that it enables participants to arrange themselves within their social and cultural realities.⁴¹ Qualitative methods compel researchers to consider their own positionality in the research process and examine whether their assumptions and values restrict or enable the research participants to express their own views in their own ways.⁴² This is particularly important when the research occurs in a cross-cultural setting.⁴³ Qualitative methods allow researchers to be guided by the participant, uncovering answers through the areas or topics that participants see as most important. It allows researchers to uncover and organise themes and commonalities across different groups and peoples. Qualitative techniques permit researchers to share in the experiences of participants as well as their understandings of life and society, and explore how they attribute meaning and purpose in the context of their lived experience.⁴⁴

Indigenous and qualitative research methods were combined for this study in the form of semi-structured, or informal, interviews with Aboriginal and Torres Strait Islander people. The youngest person interviewed was 21 and the oldest 35 years old. The geographic distribution is shown in Figure 1, and includes participants' current place of residence and the location of their community or country, where they differ. In total, 14 young Aboriginal and Torres Strait Islander people were interviewed. The length of the interviews ranged from 45 minutes to an hour. This approach allowed an in-depth examination of the lived realities of participants and for the opening of previously unexplored spaces in native title research. But perhaps the most significant contribution, emerging from an Indigenous research approach, is the meaningful listening and serious engagement with young Aboriginal and Torres Strait Islander people in relation to native title in Australia.

All participants in this study identified with distinct Indigenous nations (also referred to as 'groups' or 'mobs'). Of the nations represented, 47 per cent have their native title recognised, 26 per cent have registered native

research', *Geographic Research*, vol. 45, no. 2, 2006.

- 36 Rigney, 'Internationalization of an Indigenous Anticolonial Cultural Critique of Research Methodologies: A Guide to Indigenist Research Methodology and its Principles'; Paulani Louis, 'Can you hear us now? Voices from the margin: Using Indigenous methodologies in Geographic research'; Smith, *Decolonizing Methodologies: Research and Indigenous people*.
- 37 Rigney, 'Internationalization of an Indigenous Anticolonial Cultural Critique of Research Methodologies: A Guide to Indigenist Research Methodology and its Principles'; Paulani Louis, 'Can you hear us now? Voices from the margin: Using Indigenous methodologies in Geographic research'; Smith, *Decolonizing Methodologies: Research and Indigenous people*.
- 38 Paulani Louis, 'Can you hear us now? Voices from the margin: Using Indigenous methodologies in Geographic research', pp. 134-135.
- 39 Paulani Louis, 'Can you hear us now? Voices from the margin: Using Indigenous methodologies in Geographic research', p. 133.
- 40 B Berg, *Qualitative Research Methods for the Social Sciences*, California State University, 4th edn, 2001, Allyn and Bacon, Boston, p. 6.
- 41 Berg, *Qualitative Research Methods for the Social Sciences*, pp. 6-8; N Mack et al, *Qualitative Research Methods for the Social Sciences*, North Carolina, Family Health International, 2005, pp. 3-4; C Dwyer & M Limb, 'Introduction: doing qualitative research in geography', in M Limb & C Dwyer (eds) *Qualitative Methodologies for Geographers*, Oxford University Press, 2001, p. 6.
- 42 T Skelton, 'Cross-cultural research: Issues of power, positionality and "race"', in M Limb & C Dwyer (eds) *Qualitative Methodologies for Geographers*, p. 89.
- 43 Skelton, 'Cross-cultural research: Issues of power, positionality and "race"', pp. 87-97.
- 44 N Mack et al, *Qualitative Research Methods: A Data Collector's Field Guide*, pp. 1-4; M Limb & C Dwyer (eds) *Qualitative Methodologies for Geographers*, p. 3.



Figure 1: Participant locations. The dark blue pins are located in the participants' country. Light blue pins represent where the participants' reside.

title applications and 13 per cent had neither at the time of this study. An additional 13 per cent of these nations have rights recognised under state or territory-based land regimes. There was an equal split between participants who are actively involved in native title and those who are not. Of the participants interviewed, 14 per cent were current directors on the board of their RNTBC, 28 per cent worked for their RNTBC and seven per cent worked for a NTRB. The following sections draw out commonalities among research participants and identify points of divergence.

Connection to country and culture – An evolving picture

All research participants demonstrated strong connections to their country and culture and considered it important to visit their country as often as possible. Participants were involved in a range of cultural activities in their communities, including language programs, visits to sacred areas, family events, fishing, and sitting with and learning from elders. Participants conceded that learning and being active participants in cultural activities was no longer a given, but a purposeful action. This stemmed in large part from the fact that 85 per cent of the research cohort do not live on their country. Some participants described it as having to navigate 'two worlds'. Kurru Williamson, a Euahlayi man from north-western NSW and south-western Qld explained:

I spose you get stuck between two worlds. You know we sort of went up through school and then I went off into the trade industry and just a lot of when you're caught between the, whatever you want to call them, like the Western society and what's familiar and still just mob back at home and even like a lot of the knowledge that you feel doesn't get passed down.

Vanessa Farrelly of the Pertame Nation south of Alice Springs also mentioned this pressure:

I see a lot of young people undergoing pressure from the two worlds...You have to go to school and you have to be this thing in this Western world, and you're never good enough at that. And then you have to go home and be this thing with your family and also your community.

For most participants, it was imperative, and in some cases, an expectation, that they move away from their communities in order to access higher quality schooling or greater employment opportunities. There was consensus that while living away from their country presents ongoing challenges for the transmission of cultural knowledge, participants felt supported by their families and communities to pursue opportunities in larger centres. As Thaarramali Pearson from the Bagarramuguwarra Bama people of north-Queensland stated:

They [my community] are very positive and reaffirming of your choices to move away and study, there's no negativity around that.

Support from community was seen as key for many research participants to pursue their education and professional goals. Participants were also mindful of the expectations placed on them to ensure that their community benefits from their success. The idea of not forgetting where you come from and being literally 'grounded' in your community, was shared among many of the research participants. This is demonstrated by Hmalan Hunter- Xénié. At the time of this study, Hmalan was located in Canberra for studies but calls the Northern Territory home. She is from the Tiwi and Iwaidja nations in the top end of the Northern Territory with familial ties to Kaytej and Warlpiri in Central Australia. She explains:

The big concern is always, you know, one of the old men said to me 'don't forget to come back!' There's always that concern that you are going to lose some of who you are if you don't keep coming back. Even the first holidays that I went home, I went back out to Arnhem Land, no shoes, no thongs, making tea for all the Aunties and Uncles and they were like 'you came back!' That was a big signal to them that I know how to come back. That makes them feel more comfortable the longer I am here.

During interviews, the act of 'coming back' was often spoken of with a great deal of affection. It was not considered burdensome and research participants expressed strong desires to continue to return home and be active and responsible community members by giving back. This was captured by Kayannie Denigan, who is Anangu Luritja and has family and cultural ties to Kuku Yalanji and Bagarramuguwarra peoples in north Queensland:

I feel like I should be supporting my community. Because of the opportunities I've had, I have a responsibility to give back to the community rather than them having a responsibility to me.

Some research participants went further and outlined their ambitions to gain meaningful employment and return to country. Drew Berrick, a Dja Dja Wurrung man from central Victoria living in Melbourne stated:

I think there's always a desire to live and work on country. It's something that I discussed with my family, I suppose, I think it's a desire for everyone maybe to move back on country and work around there. It's a long-term goal of mine, it's something that I can definitely see myself doing in the next few years.

Research participants who did live and work on their country, or adjacent to it, consistently spoke of how they enjoy and draw immense personal value and pride in living on country and contributing to their community. Naomi Appleby, a Yawuru woman who works for Nyamba Buru Yawuru (NBY), a RNTBC in Broome stated:

It means everything to me, being located on country. The benefits are that I get the hands on cultural experience to be amongst my people and have that strong identity and learn the language and culture without feeling that I'm away from country or missing out.

The Aboriginal and Torres Strait Islander people in this study are active and mobile. This mobility has resulted in increased educational opportunities. Coupled with the support from community to pursue those opportunities, the majority of research participants expressed that they benefitted from greater educational and employment opportunities than their elders. However, they also felt that cultural transmission and remaining connected to country presented them with greater challenges than previous generations. Participants felt that in their families, previous generations 'lived culture' as an everyday act as they grew up. Examples given were the access parents or grandparents had to fluent language speakers, knowledge holders and country. This level of access to cultural knowledge is no longer a given for younger generations. This pressure has been noted in previous studies examining Indigenous youth participation in natural resource management.⁴⁵ Yet many communities have already demonstrated adaptation in modern times to ensure that cultural knowledge is transmitted.

Through her extensive research with young Aboriginal people in Central Australia, Dr Josie Douglas notes the challenges of knowledge transmission. Douglas speaks of 'collapsed time', whereby the transmission of cultural knowledge has been condensed and organised around the 12 month Gregorian calendar and associated activities of everyday life such as school holidays and pay days.⁴⁶ The research conducted in this project supports Douglas' research findings. It is not that younger generations of Aboriginal and Torres Strait Islander people, especially those living off-country, are isolated from their culture. The research demonstrates that young Aboriginal and Torres Strait Islander people are experiencing country and culture in a different way. This determination to learn through purposeful and sustained action as opposed to osmosis (being and learning on country) was captured by Murrawah Johnson in the inaugural youth keynote address at the 2017 National Native Title Conference. Ms Johnson articulated the threat that not passing on knowledge posed to Indigenous peoples including their ways of being and knowing. She responded to this creeping reality by declaring that young Indigenous people 'will not be the broken link in the chain'.⁴⁷

Despite the challenges of navigating 'two worlds', it is clear that young people are taking responsibility for their circumstances. Supported by their communities, young Aboriginal and Torres Strait Islander people are enacting determined steps to ensure they remain connected to their country and culture. Being engaged in the business of native title however, is a different matter.

Access and distribution of native title knowledge and information

A second theme that emerged from the interviews was the access and distribution of native title knowledge and information. Significantly, there was disconnect between the research cohort's actual knowledge of native title versus their perceived knowledge.

Throughout the interviews, it became clear that the vast majority of research participants demonstrated relatively high levels of native title knowledge. For instance, all participants were aware of the status of native title in their communities. Participants also demonstrated knowledge of other significant agreements pertaining to their country, such as land rights, Indigenous Protected Areas (IPAs), Indigenous owned stations and agreements with third parties such as mining interests. Research participants demonstrated that they generally understood the nature of the rights afforded under native title. Vanessa Farrelly explained how she understands native title:

I guess native title is something that, like, native title is more about negotiation and being able to access and being able to get royalties but not really control what happens or use it to actually build.

Despite the relatively high level of knowledge there was a perception among the majority of research participants that they lack sufficient knowledge and understanding of native title and community governance

45 Fordham & Schwab, *Indigenous Youth Engagement in Natural Resource Management in Australia and North America: A Review*.

46 J Douglas, *Kin and Knowledge: the meaning and acquisition of Indigenous ecological knowledge in the lives of young Aboriginal people in Central Australia*, PhD thesis, The Northern Institute, Charles Darwin University, 2015, pp. 85-87.

47 M Johnson, speech to the National Native Title Conference, Townsville, Queensland, 2017, <<https://aiatsis.gov.au/publications/presentations/youth-forum-keynote-our-time-now-youth-native-title>>.

more generally. It became apparent that this perceived lack of knowledge stemmed from a lack of technical knowledge and expertise of native title. Examples of this technical knowledge include whether their rights were exclusive or not, or what native title permits which would not otherwise be allowed.

It is worth mentioning here that native title is a complex, evolving and specialised legal discipline. There is little awareness or understanding within the Australian public of native title. It would seem unreasonable then to expect young Aboriginal and Torres Strait Islander people to be aware of the technical aspects of native title as it exists or not, in their communities.

Research participants who were able to demonstrate a high level of awareness of the technical and applied aspects of native title were all engaged in the business of native title in a professional capacity. However, working for a native title organisation may not be a desirable career pathway for many young Aboriginal and Torres Strait Islander people. Alternative pathways must exist to provide more young people with access to relevant knowledge and information such as targeted training courses. Yet across the group, the participants were not aware of any significant training programs that address this need. Their experiences were supported through the research, which revealed a distinct void in quality, accessible and relevant training for young Aboriginal and Torres Strait Islander people.⁴⁸ Of the people interviewed, only 14 per cent of participants had accessed professional training programs, while an additional 21 per cent had attended less formal education and training events such as the youth forum at the National Native Title Conference. All research participants were cognisant of this gap in training and education and described the types of training programs that would be of benefit. Ivan Ingram, a Wiradjuri man and legal officer at Queensland South Native Title Services (QSNTS) suggested:

[A] native title 101. But not just on the technical and legal aspects of 'native title', the kind of matters that we lawyers look at; but everything else native title entails and what is particularly relevant for community. Dealing with native title at a base level would be useful for youth to be aware of and involved in.

Jayde Geia, an Aboriginal and Torres Strait Islander woman whose family come from Yarrabah and Moa Island supported this sentiment in her interview:

I have always thought that it would be great, if back home we could have agreement making workshops or courses so that we are able to prepare and negotiate native title agreements without getting lawyers involved. And I know my family would love something like that. For people who aren't lawyers it is important to have a better understanding of the system and to know the rights that come with native title. We talk about native title, but not many people have the comprehensive understanding of it, it's far too complex.

Participants studying at university also suggested incorporating native title into their formal education would be of great benefit. Ms Geia, who holds a Bachelor of Laws mentioned the lack of opportunity she had to study native title law at university.

As participants explained what types of training would be of benefit, two modes of education emerged. Firstly, training programs aimed at young Aboriginal and Torres Strait Islander community members. Providing content through a native title '101' course would increase the level of awareness and education about what native title is including peoples' roles and responsibilities, basic skills in agreement making and corporate governance. The second training mode targets university students. Considering the transformative impact that native title will continue to have throughout Australia, integrating native title through tertiary courses would appear to be a positive and sensible suggestion.

The need for greater access to native title knowledge and information was highlighted in each interview. Notwithstanding this, all participants acknowledged that while they could attend and participate in training and educational programs, or develop their skills through on-the-job training and upskilling, there is no substitute for active and ongoing mentorship.

48 Wighton & Smith, *Common Roots, Common Futures: Preliminary Report into Indigenous Governance Education and Training in Australia*.

Active and ongoing support and mentorship

Research participants who demonstrated high levels of knowledge of native title and community governance shared common experiences of being actively mentored in these areas. Kurru Williamson demonstrated this during his interview when he said:

A lot of what I know was just talking through my older brother and all that sort of stuff the last couple of years. Our father's pretty heavily influenced in the whole native title scene and land rights and all that sort of stuff so definitely it's always been in and around our family and what we've always grown up sort of understanding.

The research clearly demonstrates that the mentorship most highly valued by research participants occurs within family units. This mentorship is both layered and multifaceted with the business of native title constituting but one component of a larger picture. Mentors were usually identified as senior family members, such as older siblings, parents, grandparents or uncles and aunts.

Participants explained that mentorship occurs on an ongoing basis. It is not time dependant and is a natural component of the relationships shared within family units. Significantly, research participants who had identified being mentored by senior family members explained that successful mentorship required them to be as active in the process as their senior people. Participants demonstrated a belief that mentorship is a reciprocal relationship, one that is shared by both elders as the knowledge givers and young people as the knowledge receivers.

The result of familial mentorship was that participants expressed a higher degree of knowledge and confidence in being directly involved with community business, such as native title. Intra-familial mentorship was the strongest indicator of whether a research participant was active in native title or other community governance processes.

Other forms of mentorship mentioned by participants were specific to the native title sector. The research participants involved in a professional capacity through RNTBCs, NTRBs or private law firms, had mixed experiences with receiving supportive mentorship through their work. Wynston Shoveller-Sesar, a Karajarri ranger spoke about the structured support offered to him. This included being involved with steering committees prior to being appointed as a director of the Karajarri RNTBC, the Karajarri Traditional Lands Association (KTLA):

With the support of the Karajarri community, we have a PBC (KTLA) that supports us... I mean, it's all about learning and getting the knowledge of how all these affairs happen. So I can just get that training and knowledge of what to expect.

In contrast, Jayde Geia reflected on her professional experience of not being supported to develop further:

Working as a lawyer, I always nominated native title as a preference and I tried to move into the native title practice or get involved in native title projects throughout my career, but unfortunately it never worked out.

Access to active and ongoing support and mentorship was a key determinant in how engaged, knowledgeable and confident participants were in regards to native title. Across the research cohort, it was both a driver and inhibitor to active engagement. Participants also reflected on a range of other experiences that in their view, present barriers to participation.

Barriers to participation

The research indicated that an absence of active and ongoing support and mentorship presented a significant barrier to participation. Other barriers included the lack of accessible and available training and education programs, as well as young people living off-country to pursue education and professional development. Research participants identified additional barriers to participation to active engagement in community governance business, including native title. One such barrier was the role of elders as decision makers in communities. Due to the vested decision-making powers in older generations, many participants spoke of being isolated from native title and other decision-making processes. One research participant who lived off-country stated that:

One of the significant difficulties I would say is being young. Even if I was home, I don't think I would be able to attend native title meetings.

It is important to note that all research participants went to lengths in interviews to acknowledge and honour elders, including the struggles they have endured to ensure that culture continues. All participants in this study acknowledged that elders and senior people are the legitimate leaders and decision makers for their people, this was not challenged. However, some participants did consider that with skills and knowledge they have acquired by virtue of their access to technology and education and professional experience, their communities would benefit from their increased participation in native title processes. One participant expressed frustration that in their community, decisions regarding agreements with third parties were being negotiated by community representatives without the requisite knowledge of what these agreements meant in the long-term. This participant felt caught between the cultural world of respecting traditional ways of organising and governing that invest decision making powers in elders and senior leaders, and the new world of agreements and long-term development proposals. These require an understanding of the processes involved as well as technical skills and legal knowledge.

Other participants simply stated they would like to be more involved and viewed greater participation as an investment in their capacity as emerging leaders. Dana Anura shared this sentiment when she expressed:

I don't really feel confident taking over the responsibility but that's fine. That is why I have everyone around me, coz I wouldn't do anything if I didn't have approval from my family. But I would like to be more involved because then I would have better understanding when it comes to me taking over.

Another participant provided a blunter assessment:

I do feel that some of the Elders don't want to let go of some things. They don't really want to hand over that power.

This contestation between generations is not new. Douglas notes that there has existed, at least since white settlement in central Australia, friction between generations with some elders complaining about the 'terrible state of youth' whilst young Aboriginal people perceived elders as 'withholding knowledge'.⁴⁹ Navigating the complex generational relationships that exist in each Aboriginal and Torres Strait Islander community proved to be something that weighed heavily on the mind of each participant in this study. Being able to meaningfully contribute through governance and decision-making in communities, including through native title, whilst honouring and respecting the place of elders remains one of the most difficult barriers to participation for the overwhelming majority of participants in this study.

Another significant barrier raised by a female participant who chose not to be identified was gender. She stated that:

Being female is also an issue. In my family most of our Elders are male and attend the native title meetings. I have also heard this from female colleagues and friends who have had the same experience. I think having more female representation at native title meetings is important.

Promoting the role of Aboriginal and Torres Strait Islander women in politics, leadership and community governance has been an identified challenge for many years. Initiatives such as Oxfam's 'Straight Talk' program continue to respond to this challenge.⁵⁰ This study has indicated that efforts to support and promote Indigenous women into positions of leadership and decision-making remain a key priority in communities and native title.

Research participants also identified the nature of native title as being a barrier to participation. For some, native title rights are limited and have not delivered any meaningful or sustainable benefit for their

49 Douglas, *Kin and Knowledge: the meaning and acquisition of Indigenous ecological knowledge in the lives of young Aboriginal people in Central Australia*, pp. 16-17.

50 Oxfam, Straight Talk program, website, viewed 18 June 2018, <<https://www.oxfam.org.au/what-we-do/indigenous-australia/straight-talk/>>.

communities. The subordinate status of native title rights were linked with youth disengagement. Liam Roberts, a young Jirrbal man from the Atherton Tablelands in north Queensland illustrated this point:

It's a challenge to get people involved in that stuff [native title] because they don't really see the immediate benefit of it.

This is a significant challenge due to the high levels of young people living away from their communities. Without the enticement of creating economic activity, native title will continue to struggle to engage young Aboriginal and Torres Strait Islander people.

Living off-country presents additional challenges for young people. Returning only intermittently to country restricts the ability of young people to participate in cultural life such as visiting sacred areas, fishing and sitting with elders on an ongoing basis. This was also identified as an inhibitor to participating in community governance, including native title. And while opportunities exist to remain connected to these community processes through technology such as social media, email and teleconferencing, additional pressures such as work, study and socialising further inhibit the capacity of young people to remain connected. Kerensa Royee, a Malanbarra Yidinji and Olkola woman from the North Queensland shared that:

It's hard to learn [native title]! Especially when you're working full-time and you're trying to learn that as well.

This time pressure is not isolated to younger generations. A study by Dr Pamela McGrath into native title economies found that over a 15 year period, one native title group contributed the equivalent of approximately seven and a half years of one person's time in voluntary labour to native title work, in addition to their paid employment and other commitments.⁵¹ An individual member of another RNTBC estimated they spent 12 working weeks on native title business, including an additional two days per week of volunteer labour for their RNTBC between mid-2011 to late 2015. This equated to a year of unpaid labour on native title specific work.⁵² This research supports McGrath's finding that those involved in native title governance find it challenging to balance native title work with their other family and professional commitments.⁵³ It also reinforces the 'enormous commitment of time and social effort that Aboriginal and Torres Strait Islander peoples are prepared to make in order to secure formal legal recognition of traditional rights and interests in land'.⁵⁴

Unlike the high degree of concern about being disconnected from cultural activities however, some research participants expressed that they were unconcerned about being isolated from native title-specific business. These participants were content with being updated on native title by their family for the time being.

It was clear that the members of the research cohort actively think about and plan for their future roles as leaders and decision makers in their communities. The variation exists in how active and involved they are in transitioning into these roles. This variation included factors such as the availability of mentorship, the circumstances of each community and also the personal circumstances of each person in this study. The ambitions of Aboriginal and Torres Strait Islander young people, juxtaposed against the lived reality and the barriers that exist, harbour important lessons for the Indigenous and community sectors that service many communities, including native title.

Emerging trends for the native title sector

This pilot study has revealed a number of emerging trends for the native title sector. These trends may also have relevance for related fields such as governance, land and water management and the wider community sector.

51 P McGrath, 'The work of rights: the nature of native title labour' in Will Sanders (ed), *Engaging Indigenous Economy: Debating diverse approaches*, ANU Press, 2016.

52 I Johnston & B Burbidge, *National picture: Small native title corporations – income and costs*, AIATSIS Native Title Policy Paper, vol. 6, July 2018.

53 McGrath, 'The work of rights: the nature of native title labour'.

54 McGrath, 'The work of rights: the nature of native title labour', p. 260.

Firstly, the way in which young Aboriginal and Torres Strait Islander people experience 'culture' has changed and continues to do so. Unlike in previous generations where cultural transmission occurred through living on-country and being surrounded by elders in an Indigenous world, or at least, a more intact and functioning Indigenous world, young people experience culture through collapsed time. Organised mainly around a 12-month Gregorian calendar and affected by professional, economic and educational pressures, Aboriginal and Torres Strait Islander young people and their communities are evolving and fostering cultural knowledge transmission through condensed and intense learning. Even with the availability of new technology to connect young people to their family and community, such as mobile phones and social media, young people value being physically present on-country above all else. It is critical that community groups and organisations, including RNTBCs, continue to create opportunities to draw young people back. Communities that are able to maximise the time young Aboriginal and Torres Strait Islander people spend on-country, including fostering knowledge transmission through cultural programs or scheduling significant community meetings adjacent to long weekends or during teaching breaks, will be better equipped to foster community leadership through succession planning.

Secondly, active and ongoing mentorship by family members has emerged as the most significant indicator of the level of knowledge, participation and confidence in native title and other community governance processes. This mentorship was a normal component of their relationship and extended to cultural and community matters, including native title. Yet with the unique demographic profile of Aboriginal and Torres Strait Islander people, what is also evident is that there are simply not enough elders to mentor all young people. Moreover, many of these elders suffer from burdensome and unjust delays in resolving native title claims. The lengthy delays in finalising native title claims and the high mortality rate of Indigenous people places cultural and corporate transmission at risk.⁵⁵ The relatively low number of senior mentors and a growing number of young people indicates there is an urgent need to find additional ways to build the capacity of future leaders. This can be done through both the structured intergenerational transmission of cultural knowledge by communities and community organisations such as RNTBCs as well as through education and training opportunities. Yet it is exactly these programs that research participants identified as almost non-existent. Whilst acknowledging that individual programs may exist in the various regions throughout Australia, what is missing is a larger and more coordinated effort to promote young people through targeted native title and community governance training. This larger effort of coordinating education and training is not limited to native title, but includes sectors such as land and water management.⁵⁶ There exists a clear need for introductory as well as more advanced programs, potentially through the tertiary education system. Familial mentorship complimented by native title educational and employment opportunities would facilitate long term engagement of Indigenous youth in native title.

Finally, this study has demonstrated that young Aboriginal and Torres Strait Islander people are supported to pursue educational and professional opportunities located outside of their community and regions and are eager to invest the skills and knowledge they acquire back into their communities. Many participants expressed that they were planning to, or were currently seeking opportunities, to return home (on-country) full-time or at least on a more sustained basis. Those who lived on or close to their country noted their pride and enjoyment in having the opportunity to work, learn and enjoy their culture. Native title is seen as an integral component of creating these opportunities such as in a professional capacity working for a RNTBC or in establishing businesses. If native title rights and interests can act as the foundation that promotes sustainable economic growth, this study has demonstrated that young generations of Aboriginal and Torres Strait Islander people will seek out those opportunities, providing benefit for both their communities and the wider regions.

55 Langton & Frith, 'Legal Personality and Native Title Corporations: The Problem of Perpetual Succession', p. 180.

56 Fordham & Schwab, *Indigenous Youth Engagement in Natural Resource Management in Australia and North America: A Review*, p. 15.

Conclusion

Native title as a sector and economy will continue to grow. As native title is recognised over increasing tracts of lands and waters, knowledge about how to use and maximise the benefits from these unique rights must also grow.

This paper has highlighted that younger generations of Aboriginal and Torres Strait Islander people are ready and eager to step into the space created by their elders. In contrast to common narratives of disengagement and disinterest, young Aboriginal and Torres Strait Islander people are an asset. Long-term investment in young people will, over time, support them to grow into the leaders of tomorrow and bring with them fresh ideas, knowledge and confidence. Unlocking this potential requires sponsorship from senior family members, mentoring and imbuing their youth with corporate and cultural knowledge. If complimented by the coordinated development of training and education programs, young people will possess the requisite knowledge and skills to leverage native title into a regime that fosters sustainable self-determination. This also requires genuine commitment from government to transform native title into a regime that licenses young leaders to develop economic opportunities. To do so would be of great long-term benefit not only to Aboriginal and Torres Strait Islander people, but all of Australia.

Abstract

Registered native title bodies corporate (PBCs) are responsible for protecting and managing native title rights and interests on behalf of the native title group. PBCs conduct the chosen activities of the group and also act as the first contact point for government and other parties wishing to undertake activities on native title lands. Succession planning and knowledge transmission are integral to the long-term sustainability of those organisations and the native title system. A key aspect of effective succession planning is engaging Aboriginal and Torres Strait Islander youth in the business of native title.

The research informing this paper engaged directly with young Aboriginal and Torres Strait Islander people about their experiences of native title. This paper reveals a number of emerging issues for the native title sector and related fields such as governance, land and water management, and the wider community sector. Key insights in this paper include the evolving ways in which connections to country and culture are being experienced; the importance of active and ongoing support and mentorship; and the need for improved access to native title knowledge and information.

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