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## CREATING SPACE

## Comanagement Considerations in Kakadu National Park

JUSTIN O'BRIEN

**K**AKADU NATIONAL Park is regularly (and rightly) described as “iconic.” Its notoriety rests upon a range of notable pillars, including it being home to its Aboriginal (Bininj) landowners, who with more than sixty-five thousand years of occupation represent one of the world’s longest continuing cultural traditions.<sup>1</sup> Kakadu is listed as a World Heritage site for both cultural and natural values, being Australia’s largest terrestrial national park, and the “first national park in the world to depart from the strict Yellowstone model, where the land is owned by the state” (Haynes 2009, 5).<sup>2</sup> At odds with its national park status, Kakadu is also the site of significant and highly contested mining development at the Ranger uranium mine, which was imposed on the Bininj community by the Australian government from the 1970s. A subsequent attempt to impose a second uranium mine at Jabiluka in the 1990s failed. Lesser known but equally important, especially to Bininj, is the fact that Kakadu was also the site of the world’s first national park formally comanaged by Indigenous peoples and the state. The relationship between the state and landowners, characterized by the asymmetrical power relations that facilitated the imposition of uranium development and continued with the joint management of the park from the early 1990s, today provides more than thirty years of experience in Aboriginal governance and Aboriginal-state relations. This is a significant and well-documented resource for analysis, particularly regarding the interplay

between Aboriginal landowners beset with an imposed mining agenda (and the community division that comes with it) and the Euro-Australian managers of a national park located in “one of the most studied places on the planet” (Howitt 1997, 9). In tracing the history of Aboriginal-state relations, in particular Aboriginal accommodation to the realpolitik of comanagement, a distinct pattern can be discerned—that of Aboriginal people, following a distinct turning point or paradigm shift in power relations with the state and industry, enabling an assertion of Aboriginal control over local affairs via state-sanctioned structures and in doing so carving out what Arturo Escobar (2008) has termed a “territory of difference.” This trajectory is not unique, but the manner in which a three-decade stability in governance at the Gundjehmi Aboriginal Corporation (GAC) has supported this assertion and how the “political learning” underpinning it has been sustained may well provide salient lessons for Aboriginal groups worldwide.<sup>3</sup>

Kakadu is at a crossroad today, as Bininj push for greater autonomy and control over their land and livelihoods. In seeking a new relationship with the state, Bininj groups are buttressed by decades of political experience and buoyed by early signs that the federal government (which formally manages Kakadu via the Department of the Environment) may respond in kind, with an increasing emphasis on direct Aboriginal management of the park. Significant hurdles to Aboriginal agency remain, however, with historic paternalistic Euro-Australian attitudes toward Aboriginal affairs remaining firmly entrenched in discussion and negotiation.<sup>4</sup>

What follows is not an examination of Aboriginal governance as existing in a domain separate to the broader social field within which it exists. It is, rather, an appraisal of the interface between Bininj and the Australian government and how, within that intercultural space distinguished by asymmetrical power relations, Bininj have articulated and deployed an authority separate to the dominant, state-controlled paradigm and advanced their interests and may continue to do so.<sup>5</sup>

The emphasis of this inquiry is on the political learning of an Aboriginal organization rather than an examination of the appropriateness and utility of largely imposed (and often contested) models of “good governance.”<sup>6</sup> To appreciate the context of this political adaptation and the audacity of the paradigm shift facilitated by the Mirarr and GAC, it is necessary to examine both the regional setting and the broader Australian policy environment as it applies to Aboriginal peoples.

## STUDY CONTEXT: NATIONAL PARK AND URANIUM

Kakadu National Park covers some 19,800 square kilometers, is roughly 250 kilometers due east of Darwin in Australia's Northern Territory, and ranges across the traditional homelands and waters of a number of what have become known to anthropology as Aboriginal "clans." Bininj traditionally lived in small and highly autonomous extended family units within these typically exogamous social groups and shared country to a significant degree, showing "a preference for spending much of their time . . . [on their father's country] and in immediately adjoining areas" (Berndt and Berndt 1970, 107). It has been reliably estimated that prior to their contact with European and Chinese Australians in the late nineteenth century, the Bininj population of the Kakadu area was more than two thousand people. By 1980 that figure had "been reduced to, at most, 4% of the population at the time of contact" (Keen 1980, 37).<sup>7</sup>

Today some three hundred Bininj permanently reside in thirteen "outstation" communities ranging in size from one or two families to sixty or more people. Services, including essential services and housing maintenance, are largely funded by the Northern Territory government and are today provided by a local service provider—the Warnbi Aboriginal Corporation Kakadu.<sup>8</sup> Living conditions on most of the outstations are consistently depressed, with decades of infrastructural neglect and substandard management (see Kakadu Region Social Impact Study 1997, 17, 26). Unfortunately, these problems persist to the present day.

There have been varying and at times competing anthropological interpretations of the essential social structure of Bininj life and the best means of articulating it. Much of Bininj religious life, which traditionally extended right throughout society, comprises a highly complex set of interrelationships between people and place and various totemic signifiers, on a number of bases and levels. For the purposes of administering land rights granted from the 1970s and for the operation of the national park, certainty is required by government as to which Bininj possess which interests. This political imperative has usually led to restrictive and simplistic interpretations of the multiple and shifting patterns that comprise Bininj society. In land claim hearings from the 1970s, such as the Ranger Uranium Environment Inquiry, which occurred (like Kakadu's two other land claims) within the context of contested uranium mining, security of tenure was sought and secured via a near-exclusive focus on the patrilineal basis of association with land (Australian Parliament 1977, 256).

The driving emphasis from the state was to secure non-Aboriginal interests to land, for mining and the national park, via settlement with “landowners” whose ownership arose via their father. While this approach accurately reflected the fact that “each territory is associated with a named unit of patrilineal descent, the *gunmugugur*” (Berndt and Berndt 1970, 54), it also excluded governing moiety principles, inherited from the matrilineal side, that fully pattern social relations and people’s association with country and each other.<sup>9</sup>

Complementing the non-Aboriginal analysis and representation of Bininj society was the subcategorization of *gunmugugur* groups via language names. By the 1990s, Bininj connection to country was customarily reduced to and represented by Euro-Australian observers as “primarily through two forms of social organisation, membership of which are ideally determined patrilineally. . . . These are the language group, and a form known as the *gunmogurrurr*” (Brockwell et al. 1995, 40). This simplistic focus on the “landowning” group effectively excised Bininj from the complex and informative moiety system, which properly governs relationships to people and land and which, in the Kakadu and West Arnhem context, was underpinned by a twofold moiety (totemic) system, with “all living things and numerous inanimate entities, tracts of land, cultural practices and natural phenomena . . . affiliated with either of the moiety systems, one pair being matrilineal (*-ngarradjku* and *-mardku*) and the other patrilineal (*duwa* and *yirridjaja*)” (Garde 2013, 25). With the near exclusive emphasis on the patrilineal basis of affiliation to land, whole sets of fundamental totemic relationships to country and people were bracketed out, with the effect that much traditional authority, founded upon these very relationships, had no function in the relationship with the state. The nature and extent of that relationship was determined by the state itself, based on its Euro-Australian value sets.<sup>10</sup> This rendered age-old Aboriginal authority and governance mechanisms void in the power relation with settler Australia. A similar structural downside of Aboriginal engagement in land claims was noted by Paul Nadasdy in the Canadian context, wherein land claims and comanagement are clearly a mixed blessing for Indigenous peoples (see Nadasdy 2003, 9).

At Kakadu, the all-weather road to the region, the Arnhem Highway, was only constructed in 1974. Prior to the establishment of the mining town of Jabiru in 1981, Bininj vastly outnumbered non-Aboriginal people across the region, which was described as having a “fossicking economy” of occasional opportunistic economic activity (in safari tourism, small-scale mining, and buffalo hunting) by small numbers of Euro-Australians and Aboriginal workers (Levitus 1982, 52). Before the significant changes of the early 1980s, due to uranium mining,

notwithstanding earlier periods of violence, disease, and Christian missionaries, Bininj life and resources in the Kakadu area were predominantly managed by Bininj themselves. That social reality was to abruptly end with the imposition of uranium mining and the establishment of the township of Jabiru.

## ESTABLISHMENT OF THE PARK

The Kakadu area was first suggested as a national park in 1965, when the Northern Territory Reserves Board sought its declaration (Lawrence 2000, 45). The park was ultimately declared under federal legislation in three stages—1979, 1984, and 1987—with additional proclamations in 1989 and 1991 (Press et al. 1995, 1). World Heritage inscriptions of the declared areas followed respectively in 1981, 1987, and 1992. Grants of Aboriginal freehold under federal law, the Aboriginal Land Rights (Northern Territory) Act (1976), were steadily made in stages across the region such that today some 42 percent of the national park is Aboriginal land.

Kakadu was steeped in controversy from its inception, with Aboriginal land rights, conservation, and uranium mining all competing for primary jurisdiction. The established park was ultimately a compromise between these three and amounted to what a peak environmental organization, Friends of the Earth, described as a “controlled disaster zone” (Lawrence 2000, 105). The political backdrop to the park’s creation, marked by the coordinated coercion of government and the mining industry, is well documented elsewhere.<sup>11</sup> Suffice to say, “the very conflicts that have been so instrumental in shaping the political history of Kakadu have helped to shape the nature of the joint management in the Park” (Lawrence 2000, 262) and continue to do so.<sup>12</sup> The present comanagement arrangement is a daily reminder to many local Bininj of the coercive power of the state and the imbalance in their relationship with authorities. The imposition of uranium mining in Kakadu and the Eurocentric wildlife management model deployed by the government in managing the park are ongoing expressions of the relatively very recent colonization of the region.<sup>13</sup>

## JOINT MANAGEMENT

In 1989 the Kakadu National Park Board of Management met for the first time following legislative amendments introduced by the Bob Hawke federal Labor government in 1985 (Haynes 2013, 200). The Bininj majority membership of the

board arose from “one of the largest meetings of Aboriginal people ever held in Kakadu, with 10 representatives of four areas of the park elected to make up the majority of members of the Board” (Levitus 2005, 17). A world first, the mere existence of the Aboriginal majority on the board of management was then and has been regularly since considered evidence of formal “Aboriginal management of the Park . . . [representing] a new locus of Aboriginal authority” (Levitus 2005, 17). Establishing the grounds for genuine Aboriginal inclusion, of course, is far more complex than simply providing for an Aboriginal majority on the board. The imposition of a representative democratic system to constitute this majority, for a start, raises serious questions as to the legitimacy of the putative Aboriginal authority. This is especially so when the perfidious manner of the park’s establishment remains practically unquestioned officially and the dominance of Euro-Australian rationality and management practice goes effectively unchallenged in practical terms.<sup>14</sup> Compounding difficulties is the fact that the Eurocentric bureaucratic nature of the park’s administration is all-pervasive and that the poor socioeconomic conditions of the local Bininj community regularly undermine genuine (although invariably misplaced) efforts by the state to provide for greater Bininj agency. Senior Bininj regularly find themselves confronted by an overwhelming challenge of attending frequent meetings on a wide range of often complex and contested matters, usually exclusively in English, with little to no administrative support and scant policy engagement from their communities. Coupled with typically poor education and ceaseless community stressors, this arrangement is exasperating and exhausting for Bininj and often deemed irrelevant to their everyday life.

In reports spanning three decades, both before and after the advent of formal joint management (via the board majority), commentators have consistently highlighted the disengagement of local Bininj in the administration and operation of the park.<sup>15</sup> David Lawrence, after an exhaustive and widespread survey of Kakadu’s joint management in the 1990s, found that generally, “Western, bureaucratic working practices constrain Aboriginal people within the management agency” (2000, 278). Lawrence found that the board of management was mostly sidelined politically in the park structure and that the Western mode in which board meetings are conducted privileges state bureaucrats, which “serves only to dominate and alienate unskilled Board members” (267). Chris Haynes, who served twice as park manager over an extended period, describes “the members of the Board’s Aboriginal majority [sitting] in polite dis-attention” and explains that “Board meetings seemed to bring about . . . the kind of sullen boredom that shows that participants are there against their better judgement” (2009, 82).

## BUREAUCRACY AND POWER

At Kakadu, Bininj very often experience bureaucracy and its underlying technical rationality as a power imbalance that both privileges the state and erodes Bininj role and function in land management. This dynamic is fueled by an information asymmetry, with state actors managing much information about country and with Bininj largely relegated to function as “the consulted.” The busy application of a seemingly mundane set of land management policies and practices in the park inadvertently denies Bininj separateness, and (ironically) such denial of difference ultimately drives the marginalization of Bininj from decision-making.<sup>16</sup> The conclusions of Haynes with respect to the park’s much-touted board of management illustrate this power dynamic in stark relief.

In the case of the Board, all evidence points to the state having achieved, and maintained, an upper hand on most issues. From the way the Board’s charter was defined by parliament through to how agendas are set and meetings are conducted, almost all structures are dominated by white means of knowing and doing. Although there are examples of minor resistance, the Board’s frustrated and disillusioned Aboriginal members have not been able to break the state’s grip on the Board’s *modus operandi* and activities. (Haynes 2013, 206)

The disingenuous nature of the application of bureaucratic power does not sit easily with Bininj. State actors are often viewed as deploying the objectivity of science and bureaucracy to suit very subjective, invariably Eurocentric ends, similar to what Nadasdy observed in the Yukon, where, “although modern Euro-Canadian bureaucrats pursue their objectives ‘rationally,’ those objectives are themselves based on subjective values and non-rational assumptions about the world” (2003, 8).

As a national park, Kakadu is administered according to the Environment Protection and Biodiversity Conservation Act 1999 (a federal statute), its regulations, and a plan of management. The area is rightly regarded as overly complex and overgoverned, with “an extraordinary array of government departments, community and public interest groups, private interests, and regulators or various sorts. Surveillance and supervision is probably more intense in this locality than anywhere else in Australia, and its administration and enforcement is complex and demanding” (Howitt 1997, 29). A legislative requirement, the plan of management is the key administrative instrument for the park, laying out policy and procedure for all activities within its boundaries. This includes



every aspect of Bininj life, from where and how Bininj may live in the park, to hunting and other traditional pursuits, as well as the regulation of all commercial activity, including that conducted by Bininj landowners. There are two key considerations regarding the plan that require specific mention. First, Bininj engagement in the plan's development and its ongoing use (plans are multiyear) is very limited, with Bininj several steps removed from the legalistic and policy-driven framing of their life in Kakadu. This marginalization is cemented by the Eurocentric mode in which "consultations" with Bininj occur and the (intrinsic) political expediencies often driving state actors. Second, the very nature of the plan fixes an administrative control of place, where the primary organizing principal for country and interpersonal relations is a bureaucratic instrument. This has the effect of dissociating land from its spiritual context with a consequential dispiriting effect on Bininj landowners and managers.

To the casual Euro-Australian observer, on the surface there is nothing notable about any of this. It is simply how national parks operate, drawing on the wildlife management approach deployed in similar parks across the globe. Kakadu simply has an added layer of complexity with the requirement to consult with Aboriginal landowners. As far as much of the world knows, this is all going very well. For example, in a piece otherwise critical of the "Edenic," "pre-lapsarian" portrayal of Kakadu as an international tourism destination, the administration of the park is praised as "an example of harmonious joint management between a European-style parks management system and the Bininj and Mungguy, the indigenous people of the park" (Harris 2012, 69).<sup>17</sup> From the Bininj perspective, however, things are not, of course, harmonious in Kakadu's joint management when there is consistent wrangling between park management and Bininj and where the much-touted Aboriginal majority on the park's board of management, often described as the linchpin of joint management, is, in fact, according to Haynes, "a location of state hegemony over traditional owners" rather than a partnership (2009, 110).

The "ordinariness" of the park's administration, along with aspirational summations of its joint management, masks the alienation Bininj experience as their worldview and agency are routinely sidelined. Bininj disengagement from the administration of the park, understandable given the imbalanced power relations at play, is regularly portrayed by state actors (albeit often informally) as indolence or disinterest.<sup>18</sup> Such power imbalance and unfair accusations of apathetic Bininj provide markers of the road to avoid when planning for a fairer, more robust governance arrangement at Kakadu.

## WHOSE GOVERNANCE?

It is a mainstay of Australian race relations that settler emotion and ideology crowd out logic when it comes to Euro-Australians' policy and practice toward Indigenous Australia. So-called evidence-based policies are pursued in accordance with predominant policy paradigms administered by Euro-Australians, in ways recognizable to and controlled by them, usually in isolation of genuine and ongoing engagement with affected communities on their terms.<sup>19</sup> This naturally excludes Aboriginal worldviews, values, and agency, and significantly privileges the Euro-Australian outlook. The lack of Indigenous take-up of policies and programs arising from this Euro-Australian mind-set and practice, although understandable from the perspective of the subaltern as a genuine "weapon of the weak" (or everyday form of resistance; see Scott 1985, 29), is predictably problematized by Euro-Australians, termed "disengagement," and then, invariably, linked to "poor governance" in Indigenous communities. Diane Smith and Janet Hunt effectively describe "a preoccupation with Indigenous governance failure and dysfunction . . . among policy makers and commentators alike," to the point that Indigenous Australia is "commonly seen through the lens of a deficit model of, and a problem for, 'good governance'" (2008, 5).

Political necessity and the broader colonial settlement narrative mask out Indigenous agency repeatedly and almost entirely.<sup>20</sup> Even seemingly well-meaning policies, such as "self-determination," are in the Australian setting largely founded on an unwillingness to genuinely acknowledge and engage with the "territory of difference" of Aboriginal Australia.<sup>21</sup>

So much of state policy with respect to Bininj has been focused on welfare, recast as "practical reconciliation" by Australian policy makers in recent years, at the expense of an acknowledged distinct political identity, the recognition of real property rights, and the meaningful engagement with Bininj in economic development as partners. This mirrors the experience of Alaskan Iñupiaq with the state's problematization of Indigenous poverty coupled with coercive measures that denied Iñupiaq agency over resources, as succinctly captured by a prominent Iñupiaq activist, the late Etok Edwardsen, in a statement following the withdrawal of the Arctic Slope Native Association from the Alaska Federation of Natives in 1970.

It is our land. And now the white man comes upon our land to devastate it and to exploit its natural resources. What are we receiving in return for this treatment?

We are being allowed to participate in a settlement whose framework is not based on rights in land, but rather hinged on social welfare. (Gallagher 1974, 207)

During the height of the campaign against the proposed Jabiluka uranium mine, Mirarr senior traditional owner Yvonne Margarula expressed a similar sentiment toward state actors, although in somewhat starker terms: “You treat me like an animal. That is my country, I have dreaming for that country, what do you have, what do you know?” (GAC 1997).<sup>22</sup>

In Australia the problematizing of Aboriginal people and Aboriginal poverty is endemic. Assessments of Indigenous governance made from within this doggedly unchanging paradigm, isolated from all cultural context and exclusive of economic and political rights, are patently inadequate.<sup>23</sup> The question arises as to whose governance is referred to in the preoccupation of Australian state and federal governments with Indigenous governance, which today, as Diane Smith argues, “has become synonymous with western democratic, neo-liberal ideas of what is supposed to constitute ‘good’ governance” (2008, 82). There can be today no consideration of any agreement between Aboriginal Australians and government or industry without a mandatory, even if meaningless, reference to “good governance.” This would be satisfactory were it not for the fact that the emphasis on “good governance” masks all other considerations, including (irrationally) whether agreements are culturally sustainable.

Governance has become a by-word for a vast field of neocolonial relations between black and white Australia, spanning the spectrum from reflecting Aboriginal ideas and aspirations to yet another encoded means of expressing state coercion. This coercion may manifest itself directly or indirectly, where this discourse is rooted in European history and expresses its journey to a post-Enlightenment administered society founded on bureaucracy and technical rationality, as well as fundamental notions of self and society, invariably marked by “the idea of the rational, self-interested individual,” distinctly at odds with Indigenous tradition (Roscoe 2014, 29). Elsewhere Smith notes “another significant factor limiting Indigenous transformation of governance” is the fact that many contemporary Indigenous governance initiatives “are embedded in, not separate from, the institutions and power of the state and its culture of governance”: “In Australia, the state exercises overwhelming jurisdictional, institutional and financial powers through which it governs Indigenous culture and seeks to make Indigenous governance and people ‘good’ in western terms” (2010, 307).<sup>24</sup> In modern Australia the manner of Aboriginal management or

“leadership” mostly preferred and rewarded by the state is one that recognizes and parleys with Euro-Australian power, that “manages up” in the realpolitik sense. This is because, first, traditional Aboriginal systems of leadership have largely remained imperceptible to Euro-Australia and, second, the Euro-Australian political system mostly seeks to exclusively engage with Aboriginal people on its own terms. While such “managing up” may seem perfectly reasonable to Euro-Australians (simply reflecting the modes of delegated authority underpinning European conventions), it has debilitating consequences for Aboriginal communities whose traditional decision-making structures are typically marginalized while the power play occurs between “community leaders” and the state. At Kakadu, for the purposes of government liaison, putative Aboriginal leadership is established through the arcane electoral process to the Kakadu National Park Board of Management, where deliberations with the state are conducted within a hierarchical frame and linguistic mode alien to most Aboriginal community life.

After some thirty years of such policy imposition, invariably within the “self-determination” paradigm, these formal solutions have largely been deemed to have failed, as described by Diane Smith elsewhere in this book. It is a bitter irony that Aboriginal Australians are invariably held responsible for these failures, whereas in truth what has failed is non-Indigenous imposed management, primed by a failure of the colonial imagination and ideologies and an attendant unwillingness to recognize the obscured decision-making structures and processes of Aboriginal Australia itself.<sup>25</sup>

## SELF-DETERMINATION IN AN AUSTRALIAN CONTEXT

Prior to the federal Australian Labor Party (ALP) assuming office in 1972, under the leadership of Prime Minister Gough Whitlam, the official federal policy with respect to Aboriginal Australians was “assimilation,” which “envisaged a future in which the forms of indigenous authority would continue their irreversible decline” (Rowse 1998, 98). The Whitlam administration stated it would reverse that trend and “restore to the Aboriginal people . . . their lost power of self-determination” (Batty 2005, 212, quoting from Whitlam’s 1973 policy speech).

Under the policy of self-determination, declared Whitlam’s first minister for Aboriginal affairs, Gordon Bryant, the government would not “make decisions

on behalf of Aborigines” or allow Aboriginal people to be “pawns in a game played by non-Aboriginals” (Batty 2005, 212 quoting Bryant). The policy was enacted via key legislative mechanisms and a range of institutions, notably the new federal Department of Aboriginal Affairs (DAA). The DAA was established by and ultimately controlled by non-Aboriginal actors in the federal and state political spheres, such that “contemporary formations of indigenous authority [were] thus articulated with the processes of the state” (Rowse 1998, 98). During the term of the conservative coalition government of Prime Minister Malcolm Fraser, immediately after the Whitlam government, the “somewhat provocative” term *self-determination* was changed “to the slightly more restrained ‘self-management’” (Altman and Sanders 1991, 7). During this time, it was clear that consideration “of governance, sovereignty and autonomy, while current in Aboriginal discourse . . . was not countenanced in policy discourses” (Howitt 1997, 26). For practical purposes the policy of self-determination, the primary vehicle for which was the “Aboriginal corporate body” managed in typical bureaucratic mode (Batty 2005, 212), was in large part reflective of the ongoing formation of the settler state rather than any genuine expression of Aboriginal sociopolitical identity.

In Australia, at least, management and governance have suffered from a conflation where what are in truth often simply service delivery organizations have become synonymous with institutions of self-government, as effectively highlighted by Patrick Sullivan: “Management is about the efficient implementation of programs, while governance concerns the distribution of authority throughout a community. . . . Both need to be integrated with each other, but they should not, as they have in Australia, be conflated” (2006, 27). In practical terms, the policies of self-determination neither envisaged nor enabled the administration of an Indigenous domain distinct from the Australian state, as they “were not designed to enable Aboriginal people to achieve political autonomy” (Lawrence 2000, 41). Such separateness is deeply problematic in settler Australia. For starters, the dominant Euro-Australian settlement narrative (and its legal, economic, and sociocultural foundations) comprehensively precludes the emergence of any genuinely separate Aboriginal polity. Further, the promulgated policy of self-determination, in the Australian setting, unlike in the United States, has never in any real sense related to Indigenous sovereignty.<sup>26</sup> Irrespective of its legal standing, self-determination, like other Aboriginal policy as determined by the Australian government, bears the mark of the European,

post-Enlightenment tradition—the administered society, marked by rationality, bureaucracy, and capitalism.

Much contemporary mainstream discourse on Australian Aboriginal governance is that it has failed to deliver on the promises of the 1970s, that Aboriginal people are “incapable of governing themselves,” thus justifying government intervention (Australian historian John Hirst, quoted in Smith 2008, 78). While it is true that many Aboriginal entities have failed to deliver on the hope of land rights, this construction ignores the fact that the essentials of what might inform good management were swept aside in the ongoing colonization of Australia. This situation was dogged by a lack of recognized difference and charged by historical forces and poor race relations in which no consideration or space was given to Aboriginal ways of decision-making and organizing. It is naïve to think that effective Aboriginal governance, in this context, could ever flourish.<sup>27</sup> Rights may have been granted and entities established, but while the essential differences between Aboriginal and Euro-Australian societies remain unexamined in a practical and everyday sense, little real progress can be made in defining and developing a robust Aboriginal governance model in its own right.

## THE TURNING POINT

In this Australian setting, then, Aboriginal entities (replete with legislated “non-replaceable” rules and the like) are not, of themselves, expressions of political sovereignty—they are an extension of state authority into Aboriginal lives.<sup>28</sup> In and of themselves they offer no panacea to the ills of political marginalization and enduring disadvantage. Yet such organizations *can* carve out Aboriginal authority separate but complementary to the mainstream.<sup>29</sup> For this to occur there must typically be a transformative moment that allows this opportunity to emerge. In the case of the Mirarr People of Kakadu, that galvanizing moment came via their discontent at the operations of the Ranger uranium mine and the attempt to develop from the 1990s the proposed Jabiluka uranium mine, which had been mothballed by federal policy during the thirteen years (1983–96) of the Hawke–Keating Labor Party dominance of Australian federal politics.<sup>30</sup> Significantly, this dispute over mining occurred entirely outside the jurisdictional concerns of the national park authorities as it related to mining enclaves outside (although surrounded by) the proclaimed national park area.

The imposition of the Ranger mine forcefully fixed the disempowerment of Kakadu Bininj. Little was done by the then royalty-receiving entity, the Gagudju Association, to genuinely counter the marginalization, founded and funded as it was by the pro-mining agenda.<sup>31</sup> Until the mid-1990s the traditional owners of Ranger, the Mirarr (who were and remain members of the Gagudju Association), were largely at a remove from the locus of Aboriginal power in Kakadu. It is outside the scope of this chapter to detail the mismanagement of the Ranger uranium mine income stream by the Gagudju Association and the social upheaval it triggered. Suffice to say, by the mid-1990s the association's financial difficulties as well as ongoing community conflict prompted the Northern Land Council (NLC) to intervene and establish the GAC, the membership of which comprised only Ranger's traditional owners—the Mirarr Clan.

One critical part of the shift was that the NLC almost immediately redirected the Ranger income to the new corporation.<sup>32</sup> This coincided with a political shift as well. In 1996 the newly elected conservative Liberal-National Coalition government of Prime Minister John Howard put uranium mining squarely on the national and international agenda, indicating its strong support to see the proposed Jabiluka uranium mine proceed. This triggered Mirarr opposition (primarily on the grounds of the threats the development posed to their cultural heritage) and the establishment of a comprehensive network of nongovernmental organizations (NGOs) across Australia and the world against the development, coordinated by the GAC. The senior traditional owner of the Mirarr landowners of the site of the Ranger uranium mine, Yvonne Margarula, decried the Gagudju Association as unrepresentative and unaccountable and controlled by the mining company agenda, to which she was opposed. In establishing GAC, Margarula and the Mirarr necessarily “broke rank” with the development paradigm that had effectively dominated Kakadu since the 1970s. Of necessity she broke away from the collectivist Gagudju Association model and established her traditional authority in a truer community of interest among her fellow Mirarr Clan members in the GAC.

In addition to heading a prominent and ultimately successful campaign to protect her people's country from the Jabiluka development, winning international acclaim along the way, Margarula has provided almost a quarter of a century of stable leadership to her immediate clan and the broader Bininj community of Kakadu. Since its establishment the GAC has maintained a vigilant watch on the environmental performance of mining operations at the Ranger uranium mine, managed a complex and enduring campaign via national and

international advocacy, and established and maintained an ambitious socio-economic agenda. Today GAC is leading the industry, community, and government in both paving the way for the transition of the regional economy postmining (set to end by 2021) and the satisfactory and timely rehabilitation of the Ranger mine.<sup>33</sup>

Margarula is neither elected in a state-sanctioned election nor appointed pursuant to state policy. Her authority derives entirely from her standing as the senior traditional owner of the Mirarr Clan. This initial head of power, so to speak, is buttressed by a strong and abiding administrative accountability on the part of GAC management and key expert advisers, a strength that, *prima facie*, misleads many observers to consider this “good governance” the cornerstone of the corporation’s enduring stability. It is, oddly enough, merely good management practice—the authority and stability of corporation, which allows it to undertake its ambitious program, stems entirely from the cultural standing of the Mirarr and of Yvonne Margarula. The stability of the corporation, the bedrock upon which innovation can occur, is due to the unanimity of the membership in following the leadership of Yvonne Margarula. In stepping away from the Gagudju Association and protesting the Jabiluka proposal, Margarula has effectively carved out the territory of difference and, in the space created, reasserted an agency founded exclusively on Aboriginal cultural authority. Under the guidance of its Mirarr Board of Directors, the GAC directed its independent income (via mining royalties) to developing a strong internal policy and political campaign capacity, to provide practical effect to the turning point.

## NEW APPROACHES: COMPLEMENTARITY AND INTEGRATION

This turning point for the Mirarr is manifesting itself in new approaches toward how the territory is to be managed, including the economic benefits flowing from that management for the Bininj. Regional economic development has been a focus of Bininj organizations in the Kakadu region since the early 1980s, with the “activities of the Gagudju Association in managing . . . mining payments, acquiring long-term investments, and delivering a range of community services within the region . . . a much-admired model for dealing with financial aspects of mining impacts in Aboriginal communities” (Howitt 1997, 18). This economic development was primarily centered on tourism—two hotels and a



boat cruise. To that extent, such Bininj-led economic activity did not substantively impact the Australian government's management of the national park. While these tourism businesses drove increasing visitation to the park, this activity occurred in a domain entirely separate from the state's formal management ethos, particularly during the establishment years of the park. In recent years, however, Bininj organizations have sought to derive greater value from their country and its resources inside the park, with ecotourism development outside developed areas, land management contracts with the state, and the proposed commercialization of bush foods. Given the extent of state regulation of Bininj land and life in Kakadu, that "their [Bininj] current lives are framed by how the park is administered" (Haynes 2009, 21), this has invariably led to arguments between Bininj groups and the Australian government.<sup>34</sup>

Across the region, Bininj are seeking new, cooperative arrangements with the Australian government, whereby they might fully realize the economic value of their land and waters in sustainable ways. Bininj traditional owners and their families are increasingly interested in developing a more sustainable and socially inclusive regional economy, utilizing opportunities in tourism and environmental services, particularly weed and feral animal management and carbon farming (Whitehead 2014, xvi–xvii). The commercialization of native bush foods such as the Kakadu plum (*Terminalia ferdinandiana*) is also of increasing interest to Bininj groups (Gorman, Griffiths, and Whitehead 2006, 365–66). It is heartening that notwithstanding the challenges these prospective developments pose to the traditional land management model of the Australian government, the government has commenced high-level discussions with Bininj groups.

Underpinning the state's engagement with Bininj, whether explicitly stated or not, is a concern that local Aboriginal organizations genuinely represent the will of Kakadu's traditional owners and their families (as determined by the Northern Land Council, itself a federal statutory body, as well as the Australian government's Department of the Environment) and that these organizations have "good" governance in place. To avoid the blanket imposition of Eurocentric notions of good governance, it is essential that Bininj groups take concrete steps to ground their governance on sources of Aboriginal authority outside the exigencies of government policy and settler Australia imaginings, as in the case of Yvonne Margarula and the Mirarr Clan in the GAC.

Significant work in this regard from a land management perspective has already been undertaken in Australia's "Caring for Country" movement. Examples of this, including those in areas outside the national park and away from its

control, provide a practical guide for Bininj. The Caring for Country movement in Australia has grown exponentially over the past ten to fifteen years, such that in 2012 there were more than seven hundred Indigenous rangers working in more than eighty sites across Australia (Kerins 2012 41). Immediately to Kakadu's east, in West Arnhem Land, Aboriginal rangers have formally conducted the West Arnhem Land Fire Abatement (WALFA) Project in partnership with government and industry since 2006, although the project to reduce carbon emissions from savannah burning commenced some ten years earlier (NAILSMA, n.d.). The WALFA Project, conducted by Warddeken Land Management Ltd., was the first such carbon abatement project to utilize restored traditional Aboriginal burning practices to generate carbon credits (Warddeken Land Management 2011, 10).<sup>35</sup> The project is an integral aspect of a broader return to country by Bininj who left their traditional homelands for life in settled areas in large numbers from the 1950s. These Bininj have determined that, "without people doing customary management, especially of fire, the Indigenous estate was physically and spiritually 'sick'" (Cooke 2012, 153). WALFA represents, in practical form, a guide for other Bininj groups in the Kakadu and West Arnhem region who similarly aspire to return to sustainably working on their traditional lands. The WALFA governance arrangements provide for reduced administrative governance (as compared to most Aboriginal corporations) and maximum opportunity for Bininj members to set the agenda and processes in ways sympathetic to their customs, outside government control.

In Kakadu itself the Bininj Manbolh project, documenting traditional walking routes through the Mirarr estate in northeast Kakadu, commenced in 2012 and involves a partnership between Bininj and other NGOs and government participants. A small team of linguists (led by a long-term interpreter for and associate of GAC) and archaeologists documented these routes with Bininj and Bininj youth, recording sites of significance, stories along the route, and the social histories of the regions in a variety of forms, including written reports and video. While the management of the project was the responsibility of academics administering grant funds, the engagement of Bininj and their design and content has signaled a clear interest and capacity to further such cultural heritage opportunities in the park.<sup>36</sup>

Such working on country and cultural heritage initiatives are not free from challenges, in actual implementation. They also risk alienating Bininj people if conducted in an overly bureaucratic manner. Irrespective, the problems are not insurmountable, and in the final analysis bureaucratic processes, which currently

otherwise dominate Aboriginal life (particularly in the Northern Territory), are most likely best turned to greater significance to Aboriginal life and for Aboriginal benefit in the case where Bininj priorities and values are paramount, such as with Working on Country projects.

Working on Country projects, naturally, greatly vary in their management practices but are generally underpinned by an assertion of Aboriginal authority, derived from connection to country as the integral driver, as distinct from a Euro-Australian precept of good governance. This foundation, and the fact that the locus of control is “on country,” privileges Aboriginal knowledge and practice. In Kakadu, there are presently three Aboriginal ranger groups associated with Aboriginal corporations. Another two Aboriginal organizations aspire to establish ranger groups. All of these groups are currently, in some form or another, in negotiation with the state managers of the national park to secure contracts for working on country. While these activities must still report to (mostly) government funding agencies in a manner determined by the state, the preservation of the Aboriginal domain as a distinct sphere, unhampered by Eurocentrism, and based on being on country, holds out hope for their long-term sustainability.

## CONCLUSION

It is critical that Indigenous Australians and Euro-Australian policy makers break with the tendency to blindly equate “good governance” with Indigenous socioeconomic advancement and conflating it with “good” management. Honestly recognizing the fundamental distinction between effective and accountable organizational management and “governance” in the broader sociopolitical sense needs to occur. This recognition must develop irrespective of ideological allegiances, whether liberal or conservative.

Respecting Aboriginal difference and preserving, to the greatest extent possible, an Aboriginal domain might allow attention to be focused, as a first principle, on mutually understood and agreed administrative procedures and communication.

In terms of the ongoing broader debate on Indigenous governance, an open-eyed gradualism may well deliver the best results. It would be better to not, as stated throughout this chapter, conflate management with the governance of political rights but instead to free Indigenous peoples up from

imposed Eurocentric “governance” values and allow political learning to occur in an “Aboriginal domain.” That space would allow for the growth of political rights, without confusing the agenda with the management of service delivery. Meanwhile, policies and procedures in Aboriginal corporations and councils, and government agencies in liaison with Indigenous people, must be honestly appraised, reevaluated from an intercultural perspective, and based on a sound anthropological and legal basis.

The hope from today is that the state is willing to yield in the power struggle that, although masked, constitutes Bininj life in Kakadu, for the government to grant control over country to Bininj in a spirit of partnership. This would allow Bininj to dictate their own terms of engagement and management, to facilitate a discussion on “governance.” In this way, it may be possible for Bininj to conceive and develop, in partnership with non-Indigenous Australians, ways of making decisions that reflect tradition and its adaptations, to be alive to the power relations within which Indigenous and non-Indigenous peoples interact, and to purposefully avoid absurd impositions of Eurocentric value and practice. As discussed by William Nikolakis in his chapter on the Canadian context, this design should no longer focus on meeting, either primarily or exclusively, the political needs of the colonizer or easily slotting into the nation-state settlement narrative—Australia’s imagining of itself—but to construct foundations upon which a genuine partnership might be founded. This partnership would be distinguished by recognition and respect for difference.

## NOTES

- 1 *Bininj*—denoting (1) person, human being; (2) Aboriginal person; and (3) man—is pronounced *bi-niny* or *binning*, or *binij* in the International Phonetic Alphabet. See Bininj Kunwok Project, n.d. The corresponding term, from the Jawoyn language, for the south of Kakadu is *Munggyu*. The term *Mirarr* denotes an individual clan within this broader Bininj public sphere.
- 2 Kakadu is listed as a World Heritage site against the following “Cultural Criteria”: (i) represent a unique artistic achievement, a masterpiece of a creative genius; and (vi) be directly or tangibly associated with events or with ideas or beliefs of outstanding universal significance; and the following “Natural Criteria”: (ii) outstanding examples representing significant ongoing geological processes, biological evolution, and man’s interaction with his natural environment; (iii) unique, rare, or superlative natural phenomena, formations, or features or areas of exceptional natural beauty; and (iv) the most important and significant habitats where threatened species of plants and animals of outstanding universal value

from the point of view of science and conservation still survive. See UNESCO World Heritage Centre, n.d.

- 3 This notion of political learning from a subaltern perspective is drawn from Eva Poluha and Mona Rosendahl (2002, 11). They, in turn, borrow the description from Nancy Bermeo (1990, 1992), who employs the term under different circumstances.
- 4 This control is marked by a near total focus on welfare matters in the wake of a dramatically described “national emergency” in 2007, involving Indigenous children in the Northern Territory as justification for a host of relatively disproportionate intrusions into Aboriginal peoples’ civil and political rights.
- 5 Francesca Merlan (1998) includes a detailed discussion of the intercultural in the town of Katherine, just south of Kakadu.
- 6 This analysis is highly localized. There are many examples of Aboriginal organizations across a wide range of activities effectively managing in ways recognizable and agreed to by government. My focus is on the contestation at Kakadu of the state’s role as regulator and the fact that such management is not readily adopted. I draw from my personal experience working for and on behalf of Mirarr traditional owners to demonstrate the ways in which they have manifested a new political opportunity based on cultural authority and deployed “good governance” to fulfill their aims and objectives.
- 7 There are a variety of explanations for this massive population decline, including sporadic violence by Euro-Australians (several massacres are recorded in Aboriginal oral histories) and voluntary migration to Darwin in the west and to the Church Missionary Society mission at Kunbarlanja to the east. However, it is widely considered that “the most potent cause of the reduction of the Aboriginal population was the transmission of introduced diseases,” with the “aggregation of Aborigines in town and settlements . . . [hastening] the transmission of disease” (Keen 1980, 42). In 1912 the ethnologist Baldwin Spencer spent several weeks in the region with the Euro-Australian buffalo hunter Paddy Cahill and, “with the help of his host, who spoke the local language, [he] recorded rituals, customs, mythology and aspects of the social organisation of the Gagudju and adjacent peoples” (Chaloupka 1999, 26). Spencer called the dominant local population “Kakadu,” describing it as “one of a group, or nation of tribes inhabiting an unknown extent of country. . . . Its eastern extension is not known. For this reason, I propose the name Kakadu, after that of the tribe of which we know most” (Chaloupka 1999, 26, quoting Spencer).
- 8 From the early 1980s, outstations were serviced by the Gagudju Association Inc., from funds derived from the Ranger uranium mine. Facing increasing financial difficulty, the association divested itself of this responsibility beginning in the mid-1990s.
- 9 The devaluation of “mother’s country” association with and decision-making for country has had a deeply disruptive and divisive influence on Bininj society across the region.
- 10 This type of “closed” power distinguished by self-reference is recognized by Marxists, particularly following Antonio Gramsci, as a form of “symbolic hegemony,” by

- which “elites control the ‘ideological sectors’ of society—culture, religion, education, and media—and can thereby engineer consent for their rule” (Scott 1985, 39).
- 11 For example, see O’Brien 2003; Trebeck 2009; Altman 2012; Scambary 2013.
- 12 It is now known, for instance, that the federal government purposefully stalled the establishment of the national park in order to pressure Bininj to conclude the delayed Ranger uranium mine agreement. During the passage of the Aboriginal Land Rights (Northern Territory) Act (1976), the right of the traditional owners to veto the mine, a right otherwise enjoyed by recognized traditional Aboriginal owners in the Northern Territory, had been expressly denied. See the cabinet submission from then deputy prime minister and resources minister, Doug Anthony (Anthony 1978).
- 13 Colonization is here considered an ongoing cultural process rather than a historical event, as discussed by Gaynor Macdonald (2010). It is noteworthy that the all-weather road to the Kakadu region was only constructed in 1974.
- 14 Elections to the board of management, coordinated by the Northern Land Council (the statutory authority responsible for administering the Aboriginal Land Rights Act and formally representing traditional Aboriginal owners under the act), are held every four years. The management of these elections is distinctly arcane, with regular confusion as to who is eligible to both stand for election and to vote. The process is guided by an NLC anthropologist’s interpretation of clan groupings and hierarchy within them, the unquestioned application of a poorly articulated variant of representative democracy, and, finally, appointment of successful candidates by the federal minister for the environment following various police checks.
- 15 See, for example, Lawrence 1996–97, 2000; Weaver 1991. These references cite the work of Sally Weaver in the mid-1980s and David Lawrence’s assessments from the 1990s. See also Christopher Haynes (2009, 56), where the first use of the term *joint management* is attributed to the Northern Land Council, in its submission to the Aboriginal Land Rights Commission in 1974.
- 16 Escobar has noted in other contexts that this denial can act as an instrument of colonization: “Difference is what defines being, and as difference is always in the process of being transformed, so is being. The oppressor, the colonizer, the dominant seek to occupy the time and energy of the subaltern to preclude difference from becoming an active social force” (2008, 18).
- 17 Kakadu is widely recognized internationally as a tourist destination and is the subject of an estimated 130,000 Google searches every month.
- 18 Alternatively, this disengagement is shown in ways typical as “weapons of the weak” (Scott 1985), such as nonattendance at board meetings, avoidance of park consultations, and contradictory behavior and messaging to park administrators.
- 19 Examples of this in practice in the Northern Territory can be found in Bill Ivory’s work at Wadeye regarding the Thamarrurr Region Council (see Ivory 2008) and Smith’s work in the Kakadu / West Arnhem region regarding the West Arnhem Land Regional Authority Interim Council (see Smith 2008).

- 20 Appropriately enough, it appears that for Euro-Australian actors there is a regularly convenient convergence of the end of reasoning in relation to Aboriginal people with the political and economic needs of “mainstream” (non-Indigenous) Australia; that is, reason assuredly ends where overarching political need arises.
- 21 This is especially seen in the regional and remote areas of the country, with a mostly untrammelled state application of Eurocentric visions of modernity, of the rational and the measurable, no matter how ill-fitted they are to Indigenous Australian social realities.
- 22 Margarula was addressing the members of the Alligator Rivers Region Advisory Committee, an entity established under federal law as a stakeholder forum regarding the effects of uranium mining on the Alligator Rivers Region environment, which includes Kakadu.
- 23 The starkest example of this disjunctive policy approach is the so-called Northern Territory Emergency Response of 2007 (see Altman 2013). The “Intervention,” as it is popularly known, saw the military enter Aboriginal communities and herald a new era of welfare-centered paternalistic policy, at the expense of Aboriginal agency and rights. The federal Racial Discrimination Act of 1975, for example, was suspended for the purposes of the Intervention so as to allow it to proceed.
- 24 The U.S.-based Harvard Project, with its emphasis on “cultural match,” has a degree of bearing in the Australian context, although how it is interpreted within Australia has been problematic, with some viewing its focus on Indigenous sovereignty as making it irrelevant in the Australian context.
- 25 It is often instructive to consider earlier treatments of recurring or endemic policy problems. For a variety of reasons this is nowhere clearer than in the case of Aboriginal affairs. A 1988 review of Aboriginal communities of Central Australia underscored the differences between traditional Aboriginal and Eurocentric management. Australia’s first Indigenous federal parliamentarian, Senator Neville Bonner of Queensland, clearly articulated the essential difference:

The management of collectively-held resources [in non-Aboriginal society] is undertaken by representative political structures. In Aboriginal society no such structures emerged. Rather, access to the natural resources was largely unrestricted and determined by individual skill and knowledge of the country. Management of the traditional productive system did not require the establishment of public goals and a capacity to take collective decisions that would bind all parties. Those principles that were to universally apply were objectified beyond human decision-making (which could involve a clash of private interests) in the Law—the Dreaming or the *Tjukurpa*. This system did not require a political structure to resolve competing claims and govern distribution of resources. No executive to set policy or bureaucracy to administer rules and procedures was needed. (quoted in Gilmour 1994, 15)

- 26 The absence of any consideration of genuine Indigenous political autonomy in the Australian use of the term *self-determination* fundamentally distinguishes it from the use of the term in international law, linked as it is to elemental human

rights regarding political status, economic, social, and cultural development (see Gardiner-Garden 1992). That self-determination did not equate to any form of sovereignty was made abundantly clear by a later ALP minister of Aboriginal affairs, Clyde Holding, who in 1984 emphasized:

I have made it clear to Aboriginal people that neither the grant of land rights, nor the recognition of Aboriginal prior occupation and ownership, in any way puts Australian sovereignty in question. . . . Sovereignty is vested in the Crown and parliaments, for a single people united in the Commonwealth. The people who are so united under the Crown are all Australians. These matters are not in question. (quoted in Gardiner-Garden 1992, 32)

- 27 An indication of this naïveté was the suggestion by the federal government in 1975 that once the Aboriginal organisations introduced by the Aboriginal Councils and Associations Act 1976 were managed and operated by Aboriginals, “the Department itself should disappear” (Batty 2005, 214).
- 28 This analysis is also advanced by Philip Batty (for example, Batty 2005, 213–14).
- 29 It is my perspective that the adoption of unrealistic notions of sovereignty and “first nation” status implicitly accepts European political parlance such as the use of the term *nation* (as in the term *first nations* in the United States) and rather than legitimating Aboriginal agency actually achieves an opposite effect—by diminishing tradition in favor of European terminology founded on centuries of political history. This may well be another example of what prominent Aboriginal broadcaster Stan Grant—a Wiradjuri man—has described as being “trapped in the imaginations of white Australians” (2015, 1).
- 30 The Labor Party achieved this by denying the owners of the Jabiluka mine a permit to export uranium.
- 31 Gagudju was established under Northern Territory law in 1980 and comprised a broad-based membership of more than 250 members from more than eleven clans across a wide region. The NLC decided that providing Bininj from across a wide region with indeterminate instructions about the need for the entity and allowing successively larger meetings to greatly expand the grounds for membership—in what one contemporary observer described as an “ad hoc and opportunistic” manner—would be an exercise in “self-determination” (see Levitus 1991, 158).
- 32 The GAC continues to receive the so-called Ranger uranium mine royalty equivalents to the present day.
- 33 Over the past decade the GAC has increased its equity more than tenfold, established a burgeoning future fund, and expanded its Aboriginal workforce via the establishment of vocational and educational training pathways, the construction and operation of a boarding school, the operation of a ranger group, the opening of three local retail businesses, and a host of socioeconomic/sociocultural programs. The GAC has also positioned itself well to adapt to the downturn in the regional economy post-mining.
- 34 These disagreements primarily relate to the negotiation of tenure arrangements suitable for Bininj groups to attract outside investment and to legal constraints on the commercialization of Kakadu’s plant and animal resources.



- 35 The Warddeken constitution was developed by a lawyer who subsequently became the long-term legal and policy adviser to senior Mirarr traditional owners and GAC management.
- 36 In more recent times the GAC has moved away from Kakadu's near-exclusive focus on research-oriented cultural heritage projects in favor of a more active role in managing cultural heritage. This involves the establishment of a cultural heritage management unit in the GAC to engage in activities that provide employment and income benefits to members and their families and allow for transmission of cultural heritage across generations.

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