

Let's Talk. Unexpected Challenges in the Native Title Landscape: Performative Behaviour in Disputation.

Catherine Wohlan, Anthropologist.

February 2024.

I'll start with a story that highlights social action and its unexpected challenges.

After a stormy native title meeting, a few years ago now, at the front of the local store, opposite my family home that I had lived in for almost 20 years, a senior Aboriginal man gave me a good telling off. He said, 'You have your degree, I have my law but what have these young people got? they've got nothing'. By way of background I'll add that I had done fieldwork with him over several years, had got to know his life story and spent time with his family. The information he provided had helped to progress a successful native title determination. For me, the time we'd spent together had engendered a certain respect.

I didn't take personal offence at his comments, but I can remember them, and they made me think.

We both felt a sense of angst about conflict at the recent native title meeting. For me this was a sense of sadness about the arguments that ricocheted out of the meeting and into everyday life. His angst wasn't fully articulated in his challenges to me. For him meetings were inevitably adversarial. I felt he was asking that, as an anthropologist, what was I doing to get things happening in a way that would make a real difference? What had I done for the young people? I was made to feel that I needed to do more; to do better.

There have never been meetings like native title meetings. They demand that Indigenous Australians make significant decisions that go to the core of their cultural and spiritual well-being. White people aren't expected to commit to meetings of this sort. Mainstream Australians are not asked to meet or vote in the way Aboriginal people are required to do. Moreover, mainstream Australians do not have either the number or the style of meeting that Aboriginal people experience. And now, in the post-native title era, meetings held by Prescribed Body Corporates (PBCs) show a marked contrast with the meetings of the past. While preparing this paper I read through old articles on self-determination from the early 1990s and noticed some significant differences. In the past you might divide the room between 'the consulters and the consulted'. For example, Rowse¹ (1992:vii) illustrates the 'polite and comic' struggle between the

¹ Rowse T, 1992. *Remote Possibilities. The Aboriginal Domain and the Administrative Imagination.* North Australian Research Unit the Australian National University.

state and community over resourcing for a community swimming pool. A swimming pool is a great community asset but it is not existential. Native title meetings are of a completely different order.

Why is there so much at stake at a native title meeting and how does this affect the way a meeting progresses?

Native title meetings are adversarial, outcomes are expected, as lawyers need to have 'instructions' or 'authorisation' matching externally imposed criteria. Generally these meetings relate to White Australian legal proceedings. In addition, meetings are expensive, they come with a hefty price tag. They are not something you can afford to get wrong. And because of the way priorities are sometimes set and budget and staff resources allocated, it can turn out that the more challenging the issues, the more complex the problems and the more difficult the groups, the less experienced are the organising staff and more restricted the budget. This, in turn, results in angrier and more frustrated people, both attendees and organisers. Groups who need the most often get the least help.

And the issues at stake? There are often resources at stake; cash incomes, employment and other material advantages. Meetings can be the platform for a competition for resources. They can also be a platform for local politics, for representation. But perhaps most importantly, there is an existential layer that may risk challenging the identity of Aboriginal people in the room.

Meetings can challenge who you are and how (and where) you belong. Aboriginal people have seen both themselves and their ancestors in Tindale genealogies, copies might be held, old family photos circulate rapidly through digital media. These archival materials become embodied and part of a person's Aboriginal identity. Exclusion or inclusion in a native title claim group or related process is a statement about a person's cultural and spiritual self. Some meetings challenge the status or beliefs of people and such challenges go to the core of who and what you are. These existential or personal identity challenges can derail the meeting; they cause frustration, anger and antagonism.

These factors culminate to deliver a meeting like no other.

Meetings as a performance

One way to understand interactions at meetings of the sort I have outlined above is to comprehend the meeting as a 'performance'. By 'performance', I mean that actions are taken with an audience in mind, executed to elicit a response or reaction. By 'performance', I mean something like what I am doing right now in giving this presentation to a group of you

assembled for a native title conference. The term ‘performance’ highlights the agency of Aboriginal people and the various ways people take control of the meeting. Performances, like mine this afternoon, are however subject to certain rules – things you can and cannot do. These rules give structure to the meetings. Often ‘meeting rules’ are announced at the start of proceedings. The PLO or legal officer who is to lead the meeting sits at the front. The participants sit in family groups. There’s an agenda of items to be considered and possibly voted upon. People may be told to be respectful. Sometimes, some sort of ‘security’ staff might be present.

How Aboriginal people operate within those rules depends on what is at stake. Some meetings are wilder than others. Indeed, some meetings may culminate in extreme performance where things seem to be an unpredictable and dangerous.

Playing a role and dressing down

My second story illustrates how a meeting can rapidly deteriorate to such an extent that it has to be abandoned. This is the story of a meeting which was convened several years ago relating to a mining agreement. I wasn’t present and don’t think there was an anthropologist even invited. The heritage work had been done years before and likely, it was believed that site recording was the main role for the anthropologists and why bring one along now. And surely the lawyers can talk directly to the Aboriginal people, so why bring in an anthropologist? Perhaps also there was a reluctance to include an anthropologists because they can be regarded as not only unnecessary but also difficult, raising issues that do not really need to be discussed.

The native title officer involved was very experienced and had been working with Aboriginal people for over thirty years. He had done an excellent job of bringing people together, from various factions, to participate in the two day meeting. Having all groups agree to be together in one meeting was an achievement in itself.

A lawyer who had some experience working with Aboriginal people led the meeting. However, things soon started to unravel. I wasn’t told what sparked the derailment, it was probably a culmination of factors, I just got information about what happened. A heated argument broke out between two factions. Items handy were thrown, engagement became chaotic and there were threats of real physical violence. Then, at the side of the meeting a woman started yelling, clearly audible above the clamour and stripping off her clothes.

The White staff deemed events too risky to continue and terminated the meeting. The two day meeting, was folded down before the end of the first day.

The lawyer blamed the Land Council staff for not organising things better. The ill-feeling was not confined to the native title holders. It affected all participants in different ways

Understanding extreme performance

The interplay or roles of meeting participants in the case I have described is like flicking the switch to vaudeville.² The vaudeville was, in this case, extreme performance. But the result of extreme performance can be disastrous, since, in the case cited, the meeting had to be abandoned. There was no agreement reached, the lawyers didn't have their instructions and formerly latent adversaries are heated to the point of combustion. The budget was blown and organising another meeting within a reasonable time was not possible. The meeting had failed. The staff are initially left not knowing whether to laugh or cry but on reflection are likely to feel a strong sense of failure. Staff are generally strongly committed to getting things right and seeing good outcomes for native title holders. Failure is so much more than disappointment

What can anthropologists do in such circumstances?

The answer is simple enough: be good practicing anthropologists and insist of being a part of the meeting's organisation. Anthropologists can read the room, consider the interactions. Ask key questions like what issues relate to identity, or to local politics, or a competition for resources.

Anthropologists can then offer a model of what is going on and bring an understanding that might help to progress whatever subject is at hand. Understanding gives shape to events and may help matters progress, to keep things rolling, to let people have their say in the group setting, to address the audience.

And to achieve these goals what is needed is time. The anthropologist must have time with the groups involved in the decision-making. Usefully, this might be in the form of a long professional working history with a group of people, or time spent before the proposed meeting in smaller group meetings to understand the position of identifiable factions before arranging the larger group meeting. This kind of information can greatly assist the lawyers with preparation for the meeting and how various matters can be ordered and discussed. It can also identify possible flash points and issues that are likely to be particularly controversial. Most of all, it may serve to make clear the issues that have to be settled and allay fears and misconceptions – all factors that are the principal source of meeting failure and extreme performances.

² Attributed to Paul Keating when speaking of gaining an understanding of leadership.

Given the digital age, the internet (and typically Face Book in particular) are sources of misinformation that need to be identified and remedied. It is fundamental to good decision making that the native title holders are properly informed. In a passing conversation recently, a colleague observed, 'the lawyers place a notice up on Face Book and think they have notified people. Preparation for the meeting just isn't taking place the way it used to'. Anthropologists should be in the thick of it, informing preparations, the information flow and working with people to understand how the meeting might unfold. Information circulating on social media might be widely spread and incorrect. The positives and negatives of social media in organising group action need to be appreciated along with how this may create factions in a meeting.

In summary.

Certain behaviours in meetings can be understood as performative, actions that are taken with an audience in mind to elicit a response.

The reprimand I received from the senior man that I gave at the beginning of this paper reveals both his position and mine. He had his Law, his cultural beliefs and body of learning. My White Australian education gave me authority to work for the native title holders. But what about the young people, what do these qualifications and processes of the meeting in which we both participated offer to them?

Meetings are, by their very nature, adversarial, but they are intended to progress certain matters. The anthropologist's role in the meeting is critical. During the planning stage the anthropologist can assist with the existential challenges to participants such as identity issues and the genealogies. But there is also other important information that is the domain of the anthropologists: a family's long term residency; an individual's status in Law; standing as senior in the family structure and how and why certain people or groups have the 'right to speak' about a particular area of country.

As the station generation passes away we cannot always appeal to the authority of older people to bring order to a meeting. Younger people have other pathways for authority, such as literacy, ranger groups establishing a different way of caring for country, the PBC board members. There are new forms of authority being created for new forms of meetings. These we need to understand and explain to our colleagues in terms of the discipline of our profession.

The anthropologist can also assist during the meeting and provide advice to our legal colleagues. The challenge is to make sure that the advice is both sought and taken into account.

By understanding group behaviour during meetings we can appreciate the adversarial function of the meeting and the agency of the Aboriginal people involved. We can both appreciate and comprehend the significance of the meeting as a political platform, an opportunity to lobby for recognition and secure access to resources. Upon this stage certain actions can be expected. It is through an understanding of them that the anthropologist can unpack the nature of the cultural phenomena taking place and develop the parameters which will assist all participants to achieve the goals that will make a difference, not only to their lives, but to those of the next generation.

Thanks to Kingsley Palmer for his assistance in preparing this talk.