

Introductory remarks prepared for the Centre for Native Title Anthropology's annual conference to be held at Women's College, University of Queensland on Collaboration in Native Title Anthropology' from the 4th and 5th February 2021

Collaboration and native title

Nicolas Peterson

Director, CNTA

The Macquarie dictionary defines collaboration as: 'united effort put into a project, literary work, etc.; ...'. As such it is rather more formal than the idea of cooperation which is the basis of all social life whether at home, at work or in the world at large. While we take both cooperation and collaboration for granted much of the time, although well aware that they can be complicated or denied, we expect to be constantly involved in both.

In the context of day-to-day native title work the principal collaborations anthropologists are involved in beyond the relations of collaboration in their immediate section, are with lawyers, and with claimants. At its broadest level the collaborations are framed by the native title legislation, and the work to achieve the opportunities the legislation offers Indigenous people.

Two recent books focus on the issue of collaboration. The more general, 'Collaboration for impact: lessons from the field' (Butcher and Gilchrist 2020) is explicitly concerned with collaboration designed to achieve public policy ends, particularly in relation to social problems (2020:1). This is a context where multiparty, cross-sectorial relationships rely on trust, shared values, implicit standards, and consultation.

Full collaboration in such contexts, it is pointed out, involves the move from transactional or service relationships which can be pretty straight forward, to relational collaboration. Relational collaboration can involve any one or more of cooperation, coordination, partnership, networking, co-design, co-production, information exchange and a range of practices unfamiliar to both

or all parties. It is more complicated and demanding than transactional collaboration because it usually requires people to depart from accepted practices, to operate outside accepted frameworks, and to take risks. It may require stakeholders to give up power and control and to coordinate their planning and work, which in turn requires collaborators to recognise their interdependence.

Given the legal authorising environment in the context of native title claims this tends to set up an apparent transactional or service relationship between anthropologists and lawyers rather than a relational one, because the Act circumscribes the information required from the anthropologist. Of course, that does not mean that such everyday transactional collaboration is unimportant.

Turning to the post-claim environment, of dispute resolution, of setting up PBCs, and of project management around what the PBCs want to do with their land and rights, the situation is much less circumscribed and some of the issues involved in relational collaboration between anthropologists and lawyers mentioned above become more relevant.

By training lawyers are risk averse and rarely keen on operating outside the normal frameworks. Life is made all the more complicated by the fact that the third party in these collaborations, the traditional owners, often have their own radically different frameworks and modes of action, making operating outside established frameworks seem riskier but possibly unavoidable.

The analysis of collaboration in this book underlines the significance of the context in which collaboration is taking place and requires that all parties recognise this and accept they may have to step out of their comfort zones particularly where innovation is required.

The second book is not specifically about collaboration; indeed, it is quite hostile to it. Many of you may know Clare Land's 'Decolonizing solidarity: dilemmas and directions for supporters of Indigenous struggles'. This is not

quite as woke and patronising as the title suggests and is quite sensible in many parts even if far too earnest.

Collaboration does appear in the index but with only three entries, it is not a concept that is explicitly centre stage in the advice provided by the book. Indeed, since the focus of the book is on 'power' and 'control' and the need of non-Aboriginal supporters of Aboriginal people to surrender any that they may have, or be thought to have, the take on collaboration is not very positive. In summarising the contents of the various chapters at the beginning Land writes:

The discussion [in chapter 4] is sensitive to strategic tensions negotiated by Aboriginal people and includes: consideration of parties' readiness to enter dialogue or partnership; questions about the desire for collaboration and whose interests it serves; exploration of ways to manage a working relationship in the context of lack of trust – such as protocols, partnership agreement and accountability constructs. It also cautions against the common desire among prospective allies for friendship as an outcome of solidarity work. (2015: 35).

Armed with this all this advice and in the grip of protocols and agreements I doubt that there is much danger of people following it becoming friends with anybody. The advice seems to be directed at professional activists rather than anthropologists, since we are all aware of the value and significance of our outsider status while quite capable of making friendships and working closely with Aboriginal people. So, much of the advice is not relevant to us in the context of native title.

The book does, however, raise the dilemmas facing the 'white-anti racists' that have been central to Emma Kowal's work and book, 'Trapped in the gap: doing good in Indigenous Australia'. In essence what Emma says is that the medical practitioners working in the Menzies School of Health Research in Darwin were conflicted because their practical experience ran up against their white anti-racist beliefs. As individuals who were highly respectful of Aboriginal people and the value of their culture and were in the Territory because they wanted to help Aboriginal people have better health, they were confronted by the fact

that some aspects of every day Aboriginal practice, that is Aboriginal culture, actually prevented the medicos from achieving the health results they were technically capable of.

This brings us face to face with the difficulties in the way of cross-cultural collaboration. This is not to say it is impossible or that there are not lots of good examples of successful cross-cultural collaboration. But there are also areas where government ambitions for native title and its related policy can run up against cultural issues, such as localism, that complicate any simple implementation of policy.

So, in the light of the distinction between transactional and relational collaboration where does that put us in our native title practice in the context of post-determination issues? It is important to recognise the widely differing situations in which native title work is carried out. At its simplest, the issues in settled Australia are likely to differ in a number of respects from those in remote Australia, although undoubtedly both are complex in their own ways. Here I will focus on remote Australia because that is where the relational collaboration will certainly be more important.

The challenges of relational collaboration are that it requires all parties to move out of their own comfort zones if it is going to be effective. This in turn means that the decision to collaborate needs to be made right at the outset of a project so that the terms are not set by one party to which the other parties must accommodate.

Relational collaboration works best where there is a project team approach, that is a team assembled before work begins. Clearly this is only appropriate for some issues but particularly where a new approach is being sought, innovation is required, and the situation is complex.

The challenge for anthropology is to get a place in the team right from the start. One area where this is particularly important in my view is in any policy development, and when brainstorming how to tackle new issues. Far too often anthropology is brought into a project in transactional mode, to help

implement a poor policy. A classic example in the Northern Territory would be the township leasing arrangements which are having such a negative effect that could have been predicted and avoided with anthropological input at the very outset of thinking about options.

In relation to compensation issues CNTA itself has sought collaboration with the Federal Court, with the National Native Title Council, and with the Native Title section of the Australian Institute of Aboriginal and Torres Strait Islander Studies by having some managers of the anthropology sections of Representative Bodies present at zoom meetings of the National Native Title Council in its deliberations over strategic ways to pursue compensation and the kind of research required.

We are indebted to Kevin Smith for facilitating this pathway. In our view one of the most important features of this collaboration is that it raises the profile of anthropology with the principle legal officers of the Rep Bodies, who in the end are likely to be those responsible, in many cases, for initiating a culture of collaboration in organisations.

Part of the challenge for anthropologists in working collaboratively is to get other non-Aboriginal people to recognise and fully understand the complexity of what we do. We work with Aboriginal people to help them accommodate to the requirements of the Act(s) and of the corporate structures they generate, while seeking ways to help recognise Aboriginal culture just as we have been doing for many years in the researching and compiling of connection reports. In effect we mediate the relationship between the claimants, the legal constraints and the lawyers through, listening, explaining, discussing, and negotiation, to reach accommodations that maximise the recognition of Aboriginal people's legitimate native title claims.

Most of this work of relational collaboration with Aboriginal people is invisible, because so much of it takes place in informal settings, people's homes or while out mapping, which is probably the main reason why outsiders fail to fully comprehend what anthropologists actually do, and its important place in the native title process.

Does this invisibility matter? I think it does because it obscures the accommodations and tensions within many native title transactions and the extent to which recognition of native title is a substantial intervention in Aboriginal social life for both those recognised as holders and the other Aboriginal residents in the region.

There is another quite different point to be made about this obscuring of the process by which native title is achieved and implemented. No doubt many of you will have noticed how increasingly these collaborations are being obscured as far as the general public is concerned. Nowhere is this more obvious than in the media releases and newsletters that write lawyers, anthropologists and other non-Aboriginal people out of the reporting and of the published photographs, implying or substituting narratives of Aboriginal self-delivery from the colonial past. What is of interest about this narrative of 'self-deliverance' in remote Australia is that it is generally the white anti-racists who are writing out the non-Indigenous, not the Indigenous claimants. It is the practical entailment of the line laid down in Land's book.

I draw attention to this not as a matter of being miffed because we are not recognised for the work we have done. If that were the case it would not warrant commenting on, and indeed it would be embarrassing to do so, but because it allows politicians and policy makers to avoid facing up to the real social policy challenges facing making native title contribute to a better future.

To assume that once people have their native title property rights, those rights will work as a magic incentive for the native title holders to engage wholeheartedly with the market economy, like other mainstream property owners, can only be an attempt by government to cut back on its on-going fiduciary responsibility to people in remote regions and to the support for Rep Bodies.

So, what is the take home message?

In the post-determination environment Aboriginal people in remote Australia are going to need, more than ever, effective organisations to help them realise

the potential of their native title rights, but they will have to be run as more than legal practices. Until such time as Aboriginal people choose to more actively engage with acquiring the professional skills to implement policy there will continue to be a heavy reliance on non-Indigenous professionals to achieve this. The challenge for both Aboriginal and non-Aboriginal people in this environment is that it is not one in which the law provides a clear direction about what to do, but rather innovation, flexibility and problem solving will be essential. They can only be achieved if all parties accept that this requires moving out of their respective comfort zones, taking risks, and recognising their interdependence which in short means taking on the challenges of genuine relational collaboration.

References

Butcher, J. and Gilchrist, D. 2020. Collaboration for impact: lessons from the field. Canberra: ANU Press.

Kowal, E. 2015. Trapped in the gap: doing good in Indigenous Australia. New York: Berghahn.

Land, C; 2015. Decolonizing solidarity: dilemmas and directions for supporters of Indigenous struggles. London: Zed Books.