



1.1 What is Governance?

This chapter will help you understand what governance is and why it's important.

What is Governance?

🕒 April 11, 2012

http://www.youtube.com/watch?v=6Bb0hWtLAgY&feature=player_embedded

Governance is a bit like a jigsaw puzzle—there are lots of different pieces that make up the whole picture. We need to understand each of these pieces and how they fit together if we want to strengthen our governance. Strong governance helps our communities and organisations get their work done well.

Governance is not the same thing as 'government' or 'management'. It is concerned with how big decisions are made – decisions related to achieving important goals, maintaining valued relationships, and providing accountability and feedback – and who takes those decisions. One definition that captures these key aspects is set out below:

Definition: It is useful to think of governance as being about people – how they organise themselves as a group to manage their own affairs and achieve the things that matter to them.

To do that they need to have in place processes, structures, traditions and rules so they can:

- determine the membership of their group;
- decide who has authority, and over what;
- ensure that authority is exercised properly;
- enforce and implement their decisions;
- hold their decision makers accountable;
- steer their future direction;
- negotiate their rights and interests with others; and
- establish the most effective and legitimate arrangements for getting those things done.

Indigenous Community Governance Research Project 2004

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<http://caepr.anu.edu.au/governance/index.php>



The Indigenous Community Governance Project (2004-2008) was a partnership between the Centre for Aboriginal Economic Policy Research (CAEPR) and Reconciliation Australia, to undertake research on Indigenous community governance with participating Indigenous communities, regional Indigenous organisations, and

leaders across Australia.

1.1.1 Think about how footy is played—it's a bit like governance.



If the footy team wants to play its best and win the match, a lot of different things need to be pulled together on the day.

What can we do? Footy playing the governance game

🕒 April 11, 2012 📄 PDF (47.04KB)



Thinking about how footy is played is a way to think about governance. For every footy team, there are a lot of different things that need to be pulled together on the day if the team wants to play its best and win the match.

1.1.2 Why is it important?

Without governance, you won't achieve the things that really matter. Governance means:

- Essential programs and services are run
- Resources (money, people, culture) are managed
- Rules, policies and laws are created and enforced
- Goals are set and achieved
- People have a shared understanding of the way things work.

Good governance benefits families and communities.

1.1.3 Who has governance?

All types of organisations need governance:

- Banks
- Businesses
- Community stores

- Schools
- Corporations
- Churches
- Art Centre's
- Housing organisations
- Government departments
- Health clinics
- Mining companies
- Land councils
- Footy teams



Image, meeting, Warakurna Artists Aboriginal Corporation, WA. Photo provided by Wayne Quilliam

You can also see governance at work in informal groups such as women's night patrol and native title claimant groups.

1.1.4 Indigenous Governance

Indigenous people have always had their own governance – an ancient jurisdiction made up of a system of laws, traditions, rules, processes, and structures that clans, groups and families use to collectively organise themselves and achieve the things that are important to them.

Governance has been defined as “how people in organisations, groups, associations and communities organise themselves collectively to achieve their visions or goals.” Governance in Indigenous communities can be formal and take shape in councils or registered corporations or be informal and be found in the way people arrange a football carnival, ceremony or manage resources. What makes it Indigenous governance is the role that Indigenous social systems, rules and beliefs play in the governance “processes (how things are done) structures (the ways people organise themselves and relate to each other) and institutions (the rules for how things should be done)”.

1.1.5 Power, authority and rules

Governance rules say:

- how power is shared
- who has the authority to make the important decisions
- how decisions should be enforced
- how the people who make decisions are accountable.

They might be written rules in documents such as constitutions, bylaws, policies, regulations, business and strategic plans, and company rules.

Or they might be unwritten rules that exist in traditions, ways of behaving and treating each other (codes of conduct), and the values people live by.

What does being accountable mean? It means being responsible—and having to answer to somebody—for a decision or action.

Snapshot Similarities and differences between community and corporate governance

🕒 April 11, 2012 📄 PDF (20.41KB)



Indigenous community governance happens outside as well as inside corporations and organisations—and there are some important similarities and differences between their governance.

1.1.6 Women and governance

The number of women in important roles in Indigenous communities and organisations is growing.

If you promote gender equity (fair representation of men and women) in decision-making roles you will strengthen the roles of both men and women.

It isn't always easy, but both men and women provide different kinds of leadership, so it's good to have a balance of both. Some organisations deal just with women's business or just with men's business, so sometimes those organisations can have boards and leadership that are just men or just women. For most other organisations, especially those representing the community, it's important to reflect the community (half men and half women) in the board, staff and leadership of the organisation.

Encourage women to become directors of organisations—so that they bring their own strengths to decision making and governance.

What can we do? Encouraging women to be active members

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Ask yourselves these questions? Does your community encourage women's representation at all levels of governance in the community or corporation—as board members, as managers, as members?

1.2 The important parts of governance



The Tree shows the role of the women and how they have survived for their families. Strong families are the roots of strong governance. (Theodora Narndu and Catherine Phillips, Building Effective Indigenous Governance conference, 2003, Jabiru)

Governance is made up of many different, but equally important elements.

The important parts of governance

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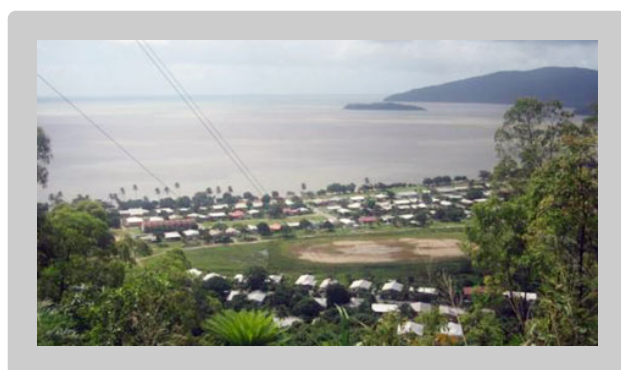
Your People (who does it)	<ul style="list-style-type: none"> • community • members • leaders • managers • staff
Your Process (how you do it)	<ul style="list-style-type: none"> • rules • laws • powers • procedures • roles and responsibilities
Your Strategies (what you do)	<ul style="list-style-type: none"> • plans • goals • milestones • programs

	<ul style="list-style-type: none"> • functions
Your Resources (what you need)	<ul style="list-style-type: none"> • infrastructure • technology • funding • capital (cultural, social, economic) • natural assests
Your Process (the way you do things)	<ul style="list-style-type: none"> • values • worldview • traditions • behaviour
Your Process (outside influences)	<ul style="list-style-type: none"> • networks • other groups • other communities, government • organisations • institutions

These all need to work well together if a group or organisation are going to be effective.

Each of these different parts have to work together in order to create strong effective and legitimate governance. Culture is at the heart of your governance. All of these different parts work together to create strong governance.

1.3 What is a community?



What an Indigenous Community Shares

🕒 April 11, 2012 📄 (57.54KB)



A community might share many features.

1.3.1 What are Indigenous communities?

Indigenous communities in Australia are extremely diverse in their cultures, histories, locations, size and local conditions. They are also subject to different government laws and funding rules in different states and territories.

Many Indigenous communities are a mix of different families, clans, and language and ceremonial groups. Some communities are based on place, others are based on shared experiences or interests and others on cultural or historical connections.

1.3.2 Diverse communities, diverse community governance

These different communities may have different governance rules. For example:

- Families and clans in separate settlements may have different governance arrangements.
- Some groups in a settlement may form close networks.
- Some groups may be distinct and even opposed.
- Some local leaders represent a whole geographic community, or several linked communities.
- Often community leaders are on the governing boards of several organisations.
- Some organisations look after the rights and interests of all community residents—for example if they deliver essential services.
- Others may focus on services to a particular group in a community or region.

Sometimes there is conflict or confusion about who has the authority to make particular decisions, and who has the right to represent or 'talk for' a particular group of people.

Different models of Indigenous governance

🕒 April 11, 2012 📄 PDF (184.52KB)



Indigenous models of community and regional governance are based on networks made up of interconnected layers of leaders, groups of people, and land ownership rights and interests. They are arranged in different ways, depending on what suits the particular community or organisation.

1.3.3 Building on community strengths

To get governance right, make sure that the right people in a community are consulted and informed, and that the right people make the decisions about particular issues. Different, and often competing, interests in a community need to be recognised and managed.

What can we do? Strengthening community governance

🕒 April 11, 2012 📄 PDF (15.52KB)



Ask yourself questions to get your governance on track

It is best to identify a community's assets, talents, strengths and experience to encourage effective and legitimate governance.

Community Assets

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Individuals	men, women, the aged, youth, leaders
Informal associations	resident's groups, artists' collectives, landcare groups, church groups, special interest groups

Informal associations for youth	school groups, youth groups, sporting clubs
Organisations	schools, local businesses, churches, health facilities, libraries, childcare and women's centers, councils, training centers
Physical Resources	land, bodies of water, parks, buildings, historical landmarks, transport and infrastructure
Cultural Resources	peoples knowledge and experience, country, cultural sites and stories, bushskills, language and kinships, laws and customs

These assets can include: If you know what the assets of your community are, you can then begin to rebuild or change community governance arrangements.

What can we do? Mapping community assets for governance

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Identify strengths in our people, What are the talents, skills, education, knowledge of our people families, groups, men, women, elders and youth?

1.3.4 Community engagement, Involve your community

- Governance needs the support of the whole community to work properly.
- Keep your community informed – tell them when you have made a big decision.
- Give the minutes of board meetings to your community in a newsletter but take out confidential information first.

1.3.5 Lay down the law

- Make sure your community knows about all the laws – the governance laws, as well as local and national laws.
- Tell them about local, environmental, financial and health issues. This can help everyone understand how good governance leads to certain decisions.

1.3.6 Talk to your government

- Government agencies are there to help you.

Contact your local, state or territory, and federal agencies if you need help on governance matters.

1.4 What is corporate governance?

If governance is the way in which people organise themselves for a common purpose, corporate governance is the rules, processes and systems of an organisation – the way things are run.

Corporate governance comprises the activities of both incorporated and non-incorporated organisations that are usually accountable to a board of directors or other elected representatives. Such organisations include privately-owned and operated (e.g. businesses), publicly owned (e.g. hospitals, schools, government agencies), and collectively owned (e.g. by family, clan or community groups).

Corporate governance issues tend to be concerned with the role of the governing board, their relationship to top management (the CEO or executive director), and their accountability to shareholders or stakeholders.

Responsibility for corporate governance

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Board members looking after the corporation	Looking after the money	Making decisions	Running programs	Following the rules
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Responsibility for corporate governance rests with both the board and the senior managers (the CEO or Executive Director). Important areas of corporate power and authority are: Corporate governance makes sure people do the things they should, and don't do the things they shouldn't.

1.4.1 Incorporation laws

Many funding bodies require groups to become incorporated before they can receive money for programs or services. Incorporation means forming a corporation.

Indigenous organisations are incorporated under different national, state and territory legislation, each with their own legal requirements and conditions.

Members of governing boards should understand these laws, and the rules their organisation operates under. These laws limit their powers and require governing members to carry out particular responsibilities.

The Office of the Registrar of Indigenous Corporations (ORIC) has an electronic rule book on its website (it's also available in hard copy) that corporations can fill out. This helps corporations create their own rules that suit them but also comply with Australian corporation laws.

ORIC Rule Book

🕒 April 11, 2012 <http://www.oric.gov.au/Content.aspx?content=publications/ruleBook.htm&menu=start&class=start&selected=Rule%20book>



ORIC has prepared a table listing features of the different Commonwealth, state and territory incorporation laws. It also highlights the benefits of the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act).

This table will help you learn more about which laws might suit your organisation best.

Comparative table of incorporation legislation (ORIC)

🕒 April 11, 2012 📄 PDF (122.36KB)



This document provides general information about incorporation statutes in Australia. It is not intended to be legal advice. While best efforts have been made to ensure the information in this document is accurate the Registrar makes no guarantee that the information contained in this document is correct.

Incorporation legislation websites to find out more about other legislation, or about becoming a cooperative

🕒 April 11, 2012 📄 PDF (11.48KB)



You can also learn more about incorporation under these other laws by visiting their websites.

1.4.2 Where does corporate governance fit?

The corporate governance of Indigenous organisations is usually performed with other kinds of governance, such as community, family, and traditional forms of governance.

Often, Indigenous groups decide to incorporate because they want to receive funding. This means they also have to abide by the requirements of the legislation and their funding bodies.

Different emphasis's between Indigenous and non-Indigenous views of 'good governance'

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corporate governance	indigenous governance
reporting	looking after land and culture
technical compliance	who should represent us
financial management	internal relationships

It is here that we often see a different emphasis between Indigenous and non-Indigenous views of 'good governance'

Organisational governance

🕒 April 11, 2012 📄 PDF (80.68KB)



Review your representation system and structure. Who represents you to people outside the organization? Who decides your representation? Are they effective?

1.5 Governance in Indigenous Organisations

How many registered Indigenous corporations are there and where are they?

At 30 June 2008, 2605 corporations were registered under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act). ORIC estimates that there are at least as many Indigenous corporations registered under other legislation.

In other words, there are about 5000 Indigenous organisations in Australia, which roughly works out to one organisation for every 100 Indigenous people. (In the 2006 census there were estimated to be about 517,000 Indigenous people in Australia.)

Indigenous organisations have an average of six people on their governing boards—so this means that about 30,000 people are directors or governing board members in Australia.



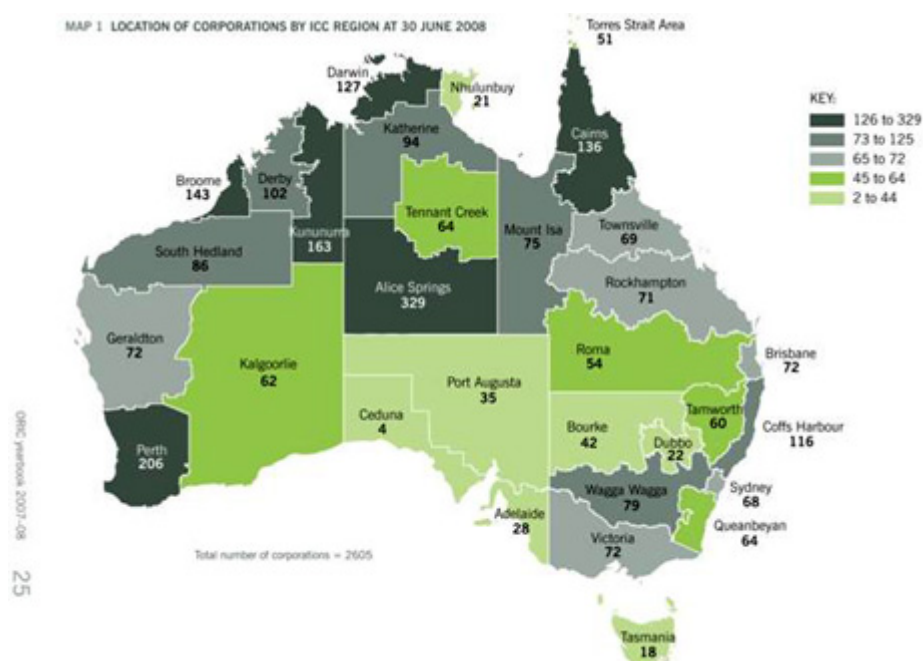
Collage of photos of different office fronts/staff of Indigenous organisations

Most groups incorporated under the federal legislation are located in remote areas and are publicly funded.

Some organisations generate substantial private income through their own enterprises and resource agreements, such as those linked to mining, compensation and some linked to the arts industry. Many hold significant community assets.

Significant community assets.

🕒 April 11, 2012 📄 (41.41KB)



ORIC map of Australia, Location of Indigenous corporations by ICC region at 30 June 2008

1.5.1 Indigenous organisations often play a bigger role

Indigenous organisations often have to perform broader community governance roles without the proper funding or a proper legal, structural and community basis for such a broad role.

Organisations that have improved their governance have found they have greater control over their own affairs and can plan their future better.

Healthy corporations tips

🕒 April 11, 2012 📄 PDF (18.65KB)



Looking After the Corporation - Make sure your board has got the right people on it.

1.5.2 Control and ownership

To gain greater ownership and control over their daily work, many Indigenous organisations are looking at what they do.

They are:

- reviewing their membership
- reviewing community and stakeholder expectations
- reviewing their leadership
- reviewing other governance arrangements
- reviewing their rules.

When you redesign or rebuild your governance it is important that the ideas and solutions come from the members, leaders and staff of the organisation itself.

ORIC's Rule Book

🕒 April 11, 2012 <http://www.oric.gov.au>



Have a look at ORIC's Rule Book to help you create or change your corporation's rules. It comes in varying formats—full, condensed and pictorial. ORIC also offers information sessions to Indigenous groups who want to incorporate.

1.5.3 Who is in a corporation?

Who is in a corporation?

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members	these are the people who decide to set up an organisation for a specific purpose
directors or governing body members	usually elected by the members of the corporation
CEO	usually appointed by the directors or governing body
other managers and staff	usually appointed by the CEO and/or directors

An organisation, association or corporation is likely to have the above.