

The Repatriation of Yagan: a Story of Manufacturing Dissent

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kaya yarn nyungar gnarn wangitch
gnarn noort balaj goon
kaart malaam moonditj

Listen Nyungars, I tell you, our people, our brother he come home, we lay his head down . . .

Old Nyungar men are singing, and the clapping sticks can be heard throughout Perth's international airport late in the night.¹ There are up to three hundred Nyungars who have come to meet the Aboriginal delegation due to arrive on the 11pm flight from London. The delegation are bringing home the head of Yagan, the Nyungar warrior.

Yagan saw the first of the colonists arrive in their boats, initially believing them to be ancestral spirits returning to visit. He was a man of standing and character who attempted to negotiate West Australia's first land treaty.² Feared and respected by the early colonists, he was a law man who killed when the Nyungar were killed.

Yagan was murdered in 1833 by two young brothers whom he had befriended and with whom he had shared a meal.³ His head was cut off in accordance with the barbaric English colonial practice of the time⁴ and then sent to England where it was displayed in various fairs and sideshows⁵, in the Insect Room of the Royal Institution of Liverpool, and the Liverpool City Museum. In 1964 Yagan's head, along with two Maori heads and a Peruvian mummy, was buried in a local cemetery.

For many years Perth's Nyungar community⁶ had sought to locate Yagan's head and bring it home to re-unite with his body and land, thereby allowing his spirit to enter the Dreaming. These efforts had met with almost overwhelming obstacles. For example, after the grave site was finally located, permission to exhume the head was refused by the British government on the basis that stillborn children were also buried in the grave⁷. It appears that permission was eventually gained with the election of the new Blair government. Support from the Australian government was also only forthcoming after Nyungar campaigner, Ken Colbung, took the opportunity before the English media to request assistance from the Australian Prime Minister John Howard, who was in London at the time. Howard readily acceded to the request, having been embarrassed by English tabloid reports of racism in Australia.

Negotiations were soon under way in the community to determine the 10 member delegation who would bring Yagan home. Plans were, however, thrown into turmoil following legal action undertaken in the West Australian Supreme Court by Mr Corrie Bodney, a Nyungar who sought an injunction to stop the Commonwealth from assisting in the repatriation of Yagan's remains.⁸ In support of his application, Mr Bodney argued that he was the sole surviving descendant of Yagan, that he did not permit the exhumation, and that the exhumation and repatriation of Yagan's head was contrary to Aboriginal customary law.

Corrie Bodney's motive in opposing the return of Yagan's head is unknown. However, there has been speculation that his position may have been influenced by the native title claims lodged on behalf of his family, the 'Ballaruk' people,⁹ whom he claims have sole native title rights to the Perth area.¹⁰ According to newspaper reports, the Supreme Court challenge cost Mr Bodney, a pensioner, \$4000. Mr Bodney, who claimed that the costs had been 'raised from within the family' (*The West*: 26 September 1997), was represented by barrister Alan Camp, a former protégé of and solicitor for mining giant Lang Hancock.

Funding for the delegation was withdrawn by the Aboriginal and Torres Strait Islander Commission (ATSIC) pending the court determination, and a four member delegation - Ken Colbung, Robert Bropho, Richard Wilkes and Mingli Wanjurri-Nunagla - partly funded and supported by the State Aboriginal Affairs Department (AAD) left for England to retrieve Yagan's head. *The West Australian* newspaper (hereinafter *The West*), Perth's sole daily newspaper, made much ado of the delegation's departure, proclaiming that the 'Group rushes off to beat court action' (*The West*: 26 August 1997).

The case was heard by Justice Henry Wallwork, a former Aboriginal Legal Service solicitor considered to be 'sympathetic' to the Aboriginal cause. Wallwork J was critical of the delegation of Elders who left prior to the court hearing: 'People went to England knowing the court case was listed... presumably with the idea of carrying out whatever they've gone to do before this court reconvened'. Contrary to the Prime Minister's earlier assurances that the Commonwealth would assist in any way possible, solicitors for the Commonwealth were instructed to neither oppose nor support the injunction. They made an undertaking to the court that they would not assist the Elders and were accused of a 'cop-out' by State Aboriginal Affairs Minister, Dr Kim Hames. In Canberra, Senator Herron's spokesperson argued that the

Hames. In Canberra, Senator Herron's spokesperson argued that the Commonwealth was pressured by Wallwork J to make the undertaking: '... the implication was that if we did not agree to it, the judge would order it' (*The West*: 28 August 1997). The Australian High Commission in London was subsequently informed that they were not to assist in the return of Yagan's head until the Supreme Court had determined the matter.

Justice Wallwork's position was curious in that it was clearly not justified by the evidence before him. This evidence included a letter in support of the repatriation previously signed by Mr Bodney and genealogical evidence which showed that Bodney is not in fact a descendant of Yagan. It is arguable that Wallwork J had been unduly influenced by the story as presented by *The West* newspaper: 'from what I can read in the papers, Mr Bodney is as direct a descendant as anybody else who has gone to England' (*The West*: 27 August 1997).

The court action resulted in the cancellation of the larger delegation, two members of which were considerably distressed and did not hesitate to comment negatively on the delegation in England when sought out by the paper. The 'division' in the Aboriginal community was trumpeted by the paper, which went on to announce that there was a 'Snub planned for Yagan delegates' (*The West*: 2 September 1997).

The delegation in England, on learning of the undertaking given by the Commonwealth, were understandably concerned and explained that they were 'caught between Aboriginal law, British law and Australian law'. Robert Bropho, when asked by solicitors why the delegation left when they did, stated that they were following Aboriginal law which they were duty bound to carry out and which was not the proper business of the court.¹¹ Despite this turn of events, the delegates were optimistic and had a 'firm belief in Yagan's spirit and that

good will come out of this'. They had learnt of a pair of Australian green parrots who had, ever since the commencement of the exhumation, been sighted at the cemetery. They had called out to the birds who answered and showed themselves.

Justice Wallwork was in an unusually serious and sombre mood when the matter next resumed in the court. The case had, after all, made front page headlines and there was an Aboriginal delegation on stand-by in Liverpool. His Honour refused to grant the injunction, citing the letter in support of the repatriation previously signed by Mr Bodney. Evidence further submitted on behalf of the delegation included that of Nyungar Elder, Albert Corunna,¹² to the effect that he himself and Edna Bropho (Robert Bropho's wife) were more direct descendants of Yagan than Corrie Bodney, that many others in the community were also descended from Yagan, and that the repatriation of Yagan was in accordance with Nyungar culture. Anthropologist Pat Baines, whilst reluctant to give evidence on genealogy on the basis that it reflects the dominant society's obsession with Indigenous genealogy, showed that Mr Bodney was only related to Yagan by in-law-ship.

Although refusing to grant the injunction, His Honour Wallwork J was full of praise for Bodney and dismissed an application to have costs awarded against him on the grounds that he acted in 'good faith'.¹³ A media report that evening showed a dismayed looking Bodney who again claimed that he would be compelled to flog Ken Colbung with a traditional fighting stick - in accordance with custom - if he returned with Yagan's head. Bodney's barrister, Alan Camp, commented that it was 'unfair of the media to focus on divisions' in the Aboriginal community and Corrie Bodney was sighted shortly thereafter at the State ATSIC office, requesting a ticket to join the delegation in London.¹⁴

Other coverage of the story by *The West* included a report that the Premier, Richard Court, was saddened that the return of Yagan's head was marked by 'petty infighting and bickering' when it should be used to unite the Aboriginal community.¹⁵ A further story¹⁶ given considerable coverage concerned Cliff Humphries, an elderly Nyungar who speaks fluent Nyungar language but would not access funds for a language dictionary. The story was critical of the funding of the delegation and questioned whether Mr Humphries' head was 'more valuable than Yagan's?'

In his reporting of the story, *West* reporter Leeroy Betti used the technique of contacting Nyungars known to be in disagreement and quoting one to the other, encouraging comments with a provocative tone.¹⁷ He had, though, earlier boasted to Nyungars that the story 'wasn't going to become another story of division in the Aboriginal community', despite his claim that his employer (*The West*) had told him that this would be such a story.¹⁸

After sufficient 'division' in the community had been reported, *The West* further devoted an editorial to the topic, preaching 'Yagan should be symbol of unity' (*The West*: 27 August 1997). According to the Editor, these 'unseemly squabbles' and 'petty arguments' were 'totally unnecessary' and 'provide ammunition to the critics of Aboriginal aspirations'. Further, 'the strongest words should be saved for those Aboriginal leaders who have turned an historic opportunity into another example of disunity'.

Racist and offensive Letters to the Editor (extremely commonplace in *The West*) were immediately forthcoming:

These black people should be ashamed of themselves

The brouhaha about Yagan's head illustrates why a lot of us mere caucasians are unable to take the Aboriginal cause seriously

And from Father Brian Morrison

Because my great-grandfather and great-grandmother are buried in Ireland and my grandmother, grandfather, my mother and father are buried in Australia, I wonder if the government would fund a junket trip for me to Ireland to bring the great grandparents back to Australia for reburial? We would all be together. Wouldn't that be nice? My family would be forever grateful to the taxpayers of this country.¹⁹

The editorial was followed up that weekend (*The West*: 6 September 1997) by an extremely derogatory cartoon entitled 'Alas poor Yagan' which named and ridiculed the Aboriginal people publicly involved on the basis of their mixed blood heritage, accusing the delegation of taking advantage of government grant money, making jokes about the Waugal (or Rainbow Serpent who is the Aboriginal Creator), and mocking Yagan who was pictured as a talking head in a box: 'crikey ... give me a warm beer in a quiet pommy pub any day'.

After this cartoon was published it transpired that the statue of Yagan on the Swan River in Perth had again been vandalised.²⁰ This time his head had been cut off.²¹

It is clear that the West Australian media, primarily *The West* newspaper on this occasion, had aimed to and successfully represented the Nyungar community in terms of disharmony and dissent. This was more than simple troublemaking to create a story: it was a racist process serving to deflect and misrepresent an extremely important story and further increase resentment on the part of the dominant society.

This is not to say there was no unrest in the community in relation to the repatriation. As explained by delegate Mingli Wanjurri-Nungala, 'Nyungars always fight before a funeral' (personal conversation, 15 September 1997). Aboriginal people are not, and should not aspire to be, one harmonious united

people, as this denies the purpose and value of genuine dissent. In particular, Aboriginal kin groups have always maintained autonomy and social distance as a means of preventing hierarchical and unequal social structures as developed in the western model.²² In this instance, however, dissent was manufactured by the white media, government and judiciary.

The Nyungar people and their supporters who attempted to stop Multiplex Corporation's development of the old Swan Brewery area, or Goonininup, also experienced this kind of racist process which saw the height of the protests marked by an Aboriginal pro-development rally consisting of 'elders' trucked in from various parts of the state.²³ The day after the rally it was reported that,

Federal Labour MP Graeme Campbell said yesterday that Multiplex helped pay for the pro-development demonstration by Aborigines ... But he refuses to say how much the construction firm had donated . The cost of transporting the group from areas including Mullewa, Wiluna and Albany, accommodation and food was \$10 000 but there was plenty more in the fund, he said. "I've got enough to keep this thing going for a while yet", he said ... A big WA mining company,²⁴ Perth legal firms and community members have also given to the fund, most on the condition that their names remain secret... (*The West*: 27 August 1997).

It is, in fact, an age old tactic explained as early as 1839 by an acquaintance of Yagan, WA's Advocate General George Fletcher Moore,

We are no match for them ... The only way to match them is to make use of them against one another' (Irene Cunningham 'Yagan got heroes nod 50 years ago', *The West*: 30 August 1997).

The story of Yagan is an extremely powerful story: it is a story of invasion, of early contact between two cultures, of colonialism and its racist, bloody nature. It is, to the dominant culture, a threatening story. And most of all, it is the story

of a great warrior who has come home. So the Nyungars at the airport are happy, and they feel the Nyungar spirit is strong. Yagan can be laid to rest and his spirit set free at last.

Notes

- 1 It is the 1st of September 1997.
- 2 Yagan learnt the English quickly and also instructed the colonists in Nyungar.
- 3 It is thought he was a young man, in his late twenties.
- 4 This widespread practice was justified in the name of 'science'. Aboriginal graves were robbed and even murder took place for this purpose. The Foundation for Aboriginal & Islander Research (FAIRA) estimate that there are a further 300 Aboriginal skulls which remain in English museums.
- 5 And described as 'The Head of a Barbarian'.
- 6 A committee of Elders, many now deceased and including Mrs Pell, Mr & Mrs Hansen, Mr & Mrs Humes, Jack Davis and Ken Colbung, had actively campaigned for the return of Yagan's head as early as the 1950's. In England, efforts were maintained by Rikki Shields, a London-based Koori, and Cressida Fforde, a PhD student who eventually pinpointed Yagan's final location.
- 7 All except for one of the parents of the stillborn babies agreed to the exhumation.
- 8 The State of WA was also made a party to the application but the action against them was subsequently discontinued.
- 9 Anthropologists agree that 'Ballaruk' is a 'skin' name, that is, a classificatory name which governs kinship relations, particularly marriage. It is not the name of the

traditional custodians of the Perth area, and it is not a name related to land ownership.

- 10 Mr Corrie Bodney is also known for his demands of large payments in exchange for development over sacred areas. For example, in 1991 he demanded over \$1 million from the State for the disturbance of sites in the East Perth vicinity: *The West* 25 October 1991.
- 11 The AAD had also received advice, of which the delegation were informed, that the court application would not affect the retrieval.
- 12 Albert Corunna (cousin to delegate Richard Wilkes) was understandably upset with ATSIK's decision to cancel the delegation, of which he was a member. Corunna's connection to Yagan and his disappointment with the delegation for leaving without him also featured prominently in *The West* 29 August 1997.
- 13 This can be compared with the significant costs imposed against Nyungar Elders in favour of Multiplex in relation to legal action taken to protect Goonininup, the resting place of the Waugal and registered sacred site.
- 14 This request was declined by ATSIK.
- 15 Premier Court is the son of former premier, Charles Court, who was famous for his disgraceful treatment of Aboriginal people during the Noonkanbah dispute in the 1970's, which sadly saw a younger Ken Colbung publicly support the Government in their stand against the Noonkanbah community.
- 16 'Elder asks why retrieval put before language', *The West*: 30 August 1997.
- 17 In seeking comments he once mistakenly quoted back to a secretary for the Swan Valley Nyungar community comments that she had previously made to him. Conversation with Margaret Jeffery, 4 September 1997.
- 18 Conversation with Margaret Jefferies, 4 September 1997.

- 19 A Catholic priest who is a well known media personality.
- 20 Racist vandals had previously splashed white paint over the statue, plastered it in graffiti and stolen the spear.
- 21 The Sunday Times newspaper was the first to report the incident, announcing flippantly that “Yagan loses his head” and that “Yagan has been beheaded again” (*The West*: 29 September 1997). The statue was repaired on the 14th of November but was decapitated again on the 16th. The head was made of bronze and weighed a massive 43 kilograms. Police said that it was cut off with an anglegrinder, a powerful piece of machinery.
- 22 See Clastres, P. (1994). ‘Archaeology of Violence’, Semiot[e]xt.
- 23 The ‘division’ in the community was subsequently relied upon by the then Federal Aboriginal Affairs Minister, Mr Robert Tickner, in support of his decision not to protect the site from desecration under *The Aboriginal & Torres Strait Islander Heritage Act 1984* (Cth). Letter from Tickner, 30 March 1993.
- 24 Revealed on ABC Radio, 26 August 1997, to be Dominion Mining.