PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

STANDING COMMITTEE ON INDIGENOUS AFFAIRS

Exhibit 18

The content of this exhibit is in video format
please click on the link to view
https://www.aph.gov.au/Parliamentary_Business/Committees/House/Indigenous_Affairs/The_growing_presence_of_inauthentic_Aboriginal_and_Torres_Strait_Islander_style_art_and_craft/Videos.

Bec Mac: Hi. Bec Mac here, continuing the discussion here in Western Australia on fake art harming and being harmful. And I'm very lucky to have a very special guest with me here, Dr Richard Walley, who's joining us in this beautiful park here. Thank you, Richard, for coming down.

Richard Walley: My pleasure.

Bec Mac: Now, can you just give us a bit of a background of your relationship to the arts in, specifically, organisations that try to, I guess, regulate Indigenous art practice.

Richard Walley: My background comes from being born into an artistic family. That's something that we were growing up with, and we saw what we call cultural expression. What people talk about as art today is our cultural expression, and it takes different forms. It's in the form of storytelling, in the form of dance, in the form of song, and also the visual arts. And that background gives us, then, the grounding to know that there's a number of principles that go with presenting, producing and also being involved with, in some shape or form, with artworks.

Bec Mac: Yes.

Richard Walley: One of those is knowing who you are, where you're from, what your stories are, and keeping those stories true. And then you have the ability then to do your own creative works from that, based upon those strong foundations that have been put down from your families and your backgrounds. And that led me on to being involved as an arts advocate in a number of different areas, right up to chairing the Aboriginal and Torres Strait Islander Arts Board for a number of years, and during those times we oversaw what were some very challenging times in the arts world on misappropriation, on misrepresentation, and also just blatant theft of ideas and culture in general. But I found that, once you get involved with the arts world, it's a very subjective world.

Bec Mac: Yes, lots of grey zones.

Richard Walley: Lots of many different colour zones. The beauty about the art world is you've got a whole palette of colour.

Bec Mac: Ha, ha, ha! That's true.

Richard Walley: So it's not just grey. It's an area where you're looking at the rights of an artist as an individual to express themselves, and also the collective rights of a community to maintain their stories, their genres, their styles.

Bec Mac: Yes. And we were just talking a little bit earlier. You were relating, like, that old Western canon of creating work, where I guess it's not, like, based on the one genius artist that creates all, and that's similar to what you were saying—how art was made in community. There was a group of people that were part of the creation. Do you think that's part of why it's tricky—some of this stuff—around ownership and, I guess, the proliferation of fake art?

Richard Walley: Yeah. The difficult part about the art is to find out two things. One is who's the owners and the custodians of the story. You have storytellers and custodian owners, but you also have collective ownership. That's a challenge for the legal process, where there's—it's very hard to own culture, to own law, to patent that, to actually own the rights to it as an individual or a company. And collective rights are something that used to exist even in the European set-up, with the early masters. Whether you were a Michelangelo or a Leonardo, you had other students that actually presented and performed a lot of the works for you and produced a lot of that, and you'd do the finishing touches. Well, we had the same here for thousands of years before the Leonardos and the Michelangelos, of our people doing exactly the same things, where you had your storylines and your custodians who would actually produce the stories and tell the stories.

Then, when you were putting them down onto the different mediums, we must remember that the early arts movement, for us as Aboriginal people, was actually sand paintings on the ground, which were done in ceremonial times, and, when the ceremony was over, you'd actually dance over the artwork and it'll disappear, and you come back and reproduce it the next year. Then that was taken from the ground and put onto the canvas.

Bec Mac: So it went away from process to product.

Richard Walley: Well, yes, it was process, but there's still process and product. Everything is a product. It depends on how the life span of that product. That original product had a life span of that storyline, so, when that was done with the dance, that was the end of that product.

And then you went from that other product now, which became a product of telling stories and interactions and keeping the stories onto a canvas, into a commercial operation, so going from a local community story into a commercial operation. That then opens up a whole can of worms, because anything that involves commercial gains is quite open to unscrupulous operators, people that do not have the morals and the respect of people, place, purpose, belonging and storylines, and they just see opportunities. And those are the sort of challenges you

actually have. Regardless of if it's artwork or anything else, the moment there's a dollar value onto something, it's up to be, you know, misinterpreted, misattributed. People will steal it in some way, shape or form.

Bec Mac: And so, from your perspective, what has been the impact of fake art on Aboriginal and Torres Strait Islander communities?

Richard Walley: The impacts you have with anything, whether it's fake art—or sometimes you've got people that are not necessarily faking; they've actually taken pieces of ideas from other areas.

Bec Mac: Appropriating?

Richard Walley: Well, appropriating or misappropriating of arts. You've got all those sorts of challenges that are very hard to monitor and extremely hard to, you know, to prosecute, to get outcomes. These are the challenges that the fake art world has actually brought on, because you've actually got to define (a) what is fake art and (b) who's responsible for the fake art. And that's a big challenge.

I think the moral system is one that is still intact as Aboriginal communities. We still respect other people's stories, their place, their styles, their genres. But once it gets into that commercial world—

Bec Mac: All morals go out the window—ha, ha, ha, ha, ha!

Richard Walley: Well, exactly. And, you know, I find that people then look—and I have to be very careful, because when you say things you put them onto the area. You have to—in the Western world, you have to sort of cover yourself with your dialogue or you could be sued.

Bec Mac: Yes.

Richard Walley: The reason you could be sued: because you don't have proof of some things that you may know or you may feel. But, unless you can actually prove it, you can't say anything.

Bec Mac: So if, just say—well, there is a Senate inquiry. This is going—a parliamentary inquiry that's going to the Senate. What would you say in regards to what you're talking about—how the law needs to be clear? Are there any guidelines that you think, from your experience, need to be considered in making that law?

Richard Walley: Probably a number of areas. One is actually looking at what's the truism of art, its reason, and what's its value—because there's two values. One is the value to the community itself. That value to the community is something that preserves the stories and the connection to that community. The other is the commercial value that actually goes out, so an investor can actually see things as an investment. So you look at those two sides of a piece of art, and who are you going to legislate for? Are you legislating for the community or are you legislating for the person who purchases and the investor? Sometimes you can't do both.

Bec Mac: Yes.

Richard Walley: And I think those are the ones where I think my opinion is that there should be a full and comprehensive discussion with communities and what their views are on their stories, how they'd like to keep them to themselves—also their views on what they see as being relevant to being commercialised and how they can give that blessing so that that commercialisation can take place while, at the same time respecting and maintaining the integrity of the local custodianship and stories. I think that's the first thing.

Then I think the second conversation is looking at those who are the dealers, the ones in between—the managers, the people who are running the galleries and these places where art exchanges hands. I think speaking with them—to them it's a business, and to maintain that integrity on the ground, it's in their interests as well. So that's another group of people to actually speak to. So that's your second group.

The third group to speak to, then, are the ones who are purchasing. Whilst you're purchasing a piece of work, are you doing it because of the aesthetics, the stories, and the connections, or is it an investment? So, you're looking at three different pieces of legislation or types of legislation that can be formulated. And that discussion has taken place a few times before, but I think with a full and comprehensive inquiry some hard and fast rules can come down. Otherwise, what you're going to do is kill an industry.

And more importantly, when I'm talking about an industry, I'm talking about the commercial side. You'll never, ever kill the stories and the cultural side. That will all survive, and we'll always have our stories; we'll always have our connection. But if you want to maintain integrity, particularly those middle dealers and the business operators and the investors, then there's a whole lot of legislation that has to come forward.

Bec Mac: That's great, to have all those really clear parameters. And what do you think we can do more to promote and support Aboriginal and Torres Strait Islanders to create and generate—and I think this is more along the lines of souvenirs—genuine cultural art pieces or work?

Richard Walley: Well, the simple answer is that you've got to curtail greed, which is impossible. That's why you have a lot of reproductions and imitations of stuff, particularly in the souvenir world. It's quite crazy, when

people are coming from other countries to get something genuine here and they're buying it under the belief that it's from here but find that it's actually manufactured in the country they came from. Those sorts of—

Bec Mac: It just doesn't make sense, does it?

Richard Walley: No, it doesn't make sense. But that's a challenge when you're in that sort of commercial world, where all scruples go out the window. I believe that the authenticity and the authentic way of operating in the arts world can be a lot clearer, and I firmly believe that there should be more legislation, like tariffs and imports and the mass productions of some of our images, and we must be very honest about this as well. There are some of our own people taking part in this misappropriation. So, it's not just the non-Aboriginal world; it's people in general who seize opportunities. And we have to address all those.

Bec Mac: Yes. And you did mention a few things that we can do. What do you think we can do, as a community, a culture and an economy, to stop fake art happening?

Richard Walley: That's a hard question. The first thing is to inform the purchaser that this is fake. The second thing is to prove that it's fake. Third, then, is actually to go to the source that the fake art is coming from and have legislation that is strong enough to deter them from participating in the future.

Bec Mac: So, a parliamentary inquiry with clear laws—not just one law, but multiple laws—around this would be a great outcome.

Richard Walley: You're looking at different levels and layers, and I believe that all those levels and layers should be looked at. While it's quite sophisticated if you're trying to weave through all the areas, you're basically coming down to who's actually creating it, where the creation and the ideas are coming from, and who's gaining from it, and then you can actually address those sorts of issues that we're talking about today. The idea of something in its purest form is a big challenge. It's a complete challenge to anyone, and I believe that if you're going to participate in the arts world you must know what you're participating in. We've had lots of artists who believe that they're being ripped off, that they're not getting the right amount of money for their works. They believe that it's been resold. You've got investors saying, 'We've put an investment out and we're paying you a fair sum because we're taking the risks and on-selling it, or not on-selling it—it's in our stock.' So, you've got those sorts of debates that, the moment you participate in the arts, come to the fore. And I think legislation is something that each of those players could actually put their contribution into.

I think if you ever believe that you know what the answer is before you start then you shouldn't even have an inquiry. I believe that if you have a process in place and say, 'We're looking at the creators and what the creators think, and we're looking at the marketers or the sellers and the advocates and what they think, and then we're looking at the purchasers and what they think'—Australian art, particularly Aboriginal art, is iconically Australia's identity. And it's a challenge to maintain that identity without it being watered down. It's more than just artworks. It's more than just a commercial opportunity. It's a brand that Australia has on the international market that's saying that we have a connection to some of the oldest continuing practices and cultures with the stories that connect to them, and it's the time now when we start to take measures to protect those. So, we should protect the stories and maintain those stories first. That's the first thing. Then the process of putting it onto the artworks—there was at one stage a branding that was spoken about—

Bec Mac: What do you think about a logo?

Richard Walley: A logo was spoken about a few times. I think I a logo is—

Bec Mac: That's Ernie Dingo's idea.

Richard Walley: Well, a logo's controversial, for a number of reasons. The first thing is, what sort of logo are you going to have?

Bec Mac: Yes.

Richard Walley: And with Aboriginal art, it's got all different regions and different locations within those regions that maintain their own style; that is their logo.

Bec Mac: Yes. So, it's hard. How would you I guess create the seminal icon of the symbol?

Richard Walley: That's a challenging one, and that's been looked at a couple of times through the Australia Council. They've looked at a couple of different logos. And they've funded some people to come up with some ideas with logos. Shane Pickett came up with his own. He had a small logo that lasted for a short amount of time, and then he went back to his signature. His signature was his logo. So, a logo is a collective. Again, if you're going to have a logo you're going to have a body that's going to audit that process. And what are their guidelines and what are their criteria for awarding and allocating a logo? And what right do you actually have to then scrutinise every individual artist or producer of works and saying whether it's genuine or not? Those are the

challenges. But I believe it comes back to the moral standing as a community, first. And then the second part is the legislation process.

Bec Mac: Thank you so much for your time. That's really crucial information. Thank you.