

REGIONALISM, INDIGENOUS GOVERNANCE AND DECISION MAKING

MID PASSAGE TOWARDS SELF DETERMINATION: A REGIONAL AND COMMUNITY PERSPECTIVE

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ABSTRACT

This paper outlines the experience of the Murdi Paaki Regional Council in charting a new course for self determination for Aboriginal and Torres Strait Islander communities in the region.

It argues that self-determination is fundamental to control by Aboriginal and Torres Strait Islander people over their own destiny, underpinned by a special relationship between Indigenous people and government that derives from the history of this land and recognition of our status as Indigenous people, bringing with it specific rights, responsibilities and obligations.

The paper discusses the emerging idea of regionalism, the development of Indigenous governance as a connecting mechanism between self determination and the way services are delivered by all spheres of government, and outlines a new framework of governance incorporating Community Working Parties that bring together community representation and service delivery agencies on a planning platform. It argues that these arrangements are capable of being implemented within existing legislative arrangements in line with supporting coordination initiatives being pursued under the authority of the Council of Australian Governments (COAG).

The paper sees these developments as being on the road to regional autonomy and in the broader context of the ATSIC Review canvasses the view that they represent mid-passage towards self determination. The unfinished business is to implement the proposals within the negotiations now proceeding between Indigenous leaders and the government over reform of ATSIC and the role of Regional Councils.

The paper raises the potential for meaningful reform of ATSIC, or whatever institutional arrangements take its place, to further the aspirations of Indigenous people and offer some hope and direction for further progress towards self-determination in the interests of both government and Aboriginal and Torres Strait Islander people.

1. INTRODUCTION

I have been asked to talk about the issues we encountered in the Murdi Paaki Region on our road to regional autonomy and to highlight some of the positive developments associated with that unfinished journey.

We all know that self-determination is fundamental to control by Aboriginal and Torres Strait Islander people over their own destiny. As Indigenous people we are also engaged in a special relationship with government. That relationship is founded on the shared history of this land.

As the original occupiers and owners of this land, Aboriginal people had their own customary traditions and structures of law-making. As a consequence, we have a relationship with government that embodies what I would describe as “a constituent sovereignty.” Such a relationship gives primacy to negotiation.

The title of my paper “Mid-passage towards self-determination” is the one we gave to our response to the ATSIC Review. It seemed that the outcome of meaningful reform of ATSIC at the national level might further our aspirations at the regional level and offer some hope along the path to self-determination.

Now that we have seen the result of the ATSIC Review, and are engaged with government to shape its response to it, we must ask ourselves: how long will we continue to be in mid-passage?

In my introduction, by way of setting a framework for examining the situation in Murdi Paaki, I want to link the three key elements of Murdi Paaki’s approach to reform – self determination, regionalism and good governance, which are the themes of this seminar series.

Self determination

Self-determination has many dimensions to it.

We see our proposals, which have been developed over a long period of consultation with our people, as a practical approach. It builds on existing institutional arrangements and specifically regional councils established under the *Aboriginal and Torres Strait Islander Commission Act 1989*.

Self-determination and self-management are not the province of a single organisation or structure. A range of national, regional, local and functional organisations contribute to that empowerment.

Within this complex of dispersed arrangements, the ATSIC Act has established both a national and regional representative framework which gives the Commission direct involvement in government decision-making and 35 Regional Councils specific regional planning responsibilities.

We would be concerned if the process of artificially dividing the Commission between elected representatives and the administration and separating them into two independent agencies were to be the benchmark for future directions. Such arrangements will only diminish self-determination.

The debate about whether ATSIC should make decisions on expenditure is a diversion. The argument is not primarily about money: it is about empowerment, responsibility and accountability for the way services are delivered to Aboriginal and Torres Strait Islander people.

Self-determination should not be seen as a threat to the body politic, even though some program managers anxious to preserve their jurisdictions might think so. Self-determination is a pathway to overcoming profound disadvantage by returning to us control over our lives and making agencies more responsive to our needs.

If ATSIC in its present form cannot be reformed around an understanding of what self-determination means to Aboriginal and Torres Strait Islander people, then we should be looking at new institutional arrangements.

Regionalism

While national structures are still to be determined, my focus is on self-determination and empowerment at the regional level where I believe there is greater clarity in what has to be done.

One of the more positive outcomes of the ATSIC Review was to focus on the role of Regional Councils within the ATSIC system.

Our submission to the ATSIC Review outlined a framework of regional governance involving the establishment of a Regional Authority incorporating a system of community representation more appropriate to the interests of Aboriginal and Torres Strait Islander people in the Murdi Paaki region.

Its focus is on regional governance and its alignment with how services are delivered at the community level. This was consistent with our understanding of the terms of reference for the ATSIC review which had two arms to them:

- how Aboriginal and Torres Strait Islander people can be best represented in the development of Commonwealth policies and programs to assist them; and
- the appropriate role for regional councils in ensuring the delivery of Government programs and services to Indigenous Australians.

Good governance

We have always seen good governance as being central to our aspirations.

The ATSIC system offers a framework for Indigenous governance linked to Federal arrangements between the Commonwealth and State and Territory Governments. It

may not be perfect, but it has been a valuable start. At the moment it is what we've got.

When ATSIC was created, some observers, more visionary than we thought, saw it as what has since come to be called "a fourth order of governance."

All the measures of Indigenous disadvantage – health, employment, education, economic participation -- present a compelling, indeed an irrefutable case, for new mechanisms of Indigenous control over a combination of mainstream and special services for Aboriginal and Torres Strait Islander people.

And yet we are still trying to work out a suitable system of governance, one where Aboriginal and Torres Strait Islander people are in control and can take responsibility for their own development and one where government agencies are made accountable to us for achieving the outcomes for which they are funded.

Solutions being discussed range from "joined up" government, to use the new jargon, to greater autonomy for Regional Councils.

The linkage we make is between self-determination, Indigenous governance, and decision-making by Aboriginal and Torres Strait Islander people at the community level.

Good governance, as I see it, is about the way decisions are made, who makes them, and their impact on the circumstances of our people. It involves the institutions of government at all levels, not in isolation from each other, but being joined for a common purpose. It is that joining which is central to the approach of the Murdi Paaki Regional Council.

As we wait mid-stream, the next phase of reform – the re-shaping of ATSIC – will let us know whether we are to make headway in our voyage upstream.

It is against this general background that the Murdi Paaki Regional Council has developed its approach to regional autonomy.

2. THE MURDI PAAKI EXPERIENCE

The Background

The Murdi Paaki Regional Council is the peak representative Indigenous body in the North Western and Far West sectors of New South Wales. It is incorporated under the *Aboriginal and Torres Strait Islander Commission Act 1989*. Its 11 members are democratically elected by Aboriginal and Torres Strait Islander persons who vote throughout the region in three wards.

The Region has a population of 7300 (at the 1996 census) or 14% of the total population of the area. It incorporates eight local government areas -- Coonamble, Walgett, Brewarrina, Bourke, Central Darling, Broken Hill, Cobar, and Wentworth Shires.

According to the ATSIIC 2001 annual report, program expenditure in the region amounted to \$15,000,000, representing \$2054 per head of population.

The public finance of the region also includes the operations of the eight local government councils in the region. Their operating budgets amount to \$139 million. The proportion of Aboriginal people within each local government boundary varies from 54.4 per cent in Brewarrina to 3.47 per cent in Broken Hill. The significance of the relationship between the Murdi Paaki Regional Council and local government cannot be over-stated.

Since its inception as the Far West and Wangkumara ATSIIC Regional Councils in 1990 there has been a steady build up of capacity within the Murdi Paaki Regional Council to plan, advocate, and attract resources for communities and manage or guide developments throughout the region.

The Murdi Council has identified as one of its three core goals:

- ***superior governance, administration and strategy for the Regional Council.***

We see improved governance arrangements as central to achieving our goals. Through them, we are aiming to improve our living standards and quality of life and give us social justice. It involves empowering our communities to make their own decisions and ensuring accountability to us of the way services are delivered and their outcomes.

Until now, insufficient weight has been given to the role good governance and its adequate resourcing can play in improving outcomes for our people. They are directly associated with the securing and exercise of our human rights, the strengthening of Indigenous capacity to promote community development on our own terms, and to have restored to us leadership, responsibility and control.

Governance Arrangements

In broad terms our regional governance framework has two dimensions to it:

- effective representation and participation of Indigenous communities; and
- partnerships with government agencies at the regional level in meeting their service delivery obligations.

Its focus is on building social capital and regional capacity to enable communities, families and individuals to engage equitably with government and service providers in promoting community well-being.

The framework is based on:

- promoting greater participation in regional decision-making;
- empowering Community Working Parties to connect community governance and service delivery and engage with agencies responsible for the delivery of services;
- targeting investment in communities and individual and family welfare through rigorous regional and community planning processes;
- joining all government agencies in coordinated delivery arrangements under a single statutory umbrella;
- the pooling of funds and the development of regional and community budgets that identify all agency outputs within a single program outcome;
- working with government agencies to improve the efficiency and effectiveness of their service delivery; and
- building on existing assets, including the strength of Indigenous cultures and identity.

The focus of our commitment is to strengthen the role and participation of the 16 major and seven smaller communities in regional decision-making and service delivery in ways more directly relevant to the circumstances of the region's Aboriginal and Torres Strait Islander population and to improve outcomes for them.

We believe the governance framework is consistent with current policy directions of the Commonwealth and NSW Governments and the Council of Australian Governments with their primary focus on outcomes, improving access to mainstream programs, and better targeting Indigenous-specific programs to areas of greatest need, including remote locations. These directions more recently have been embodied in the Commonwealth Government's response to the Commonwealth Grants Commission's *Indigenous Funding Report 2001*. The service delivery element is being pursued by the COAG coordination trials in which the Murdi Paaki Regional Council is involved.

A new relationship

The framework we envisage aims to establish a new relationship between communities, a regional body that directly represents their interests, and government.

The framework specifically distinguishes between governance and service delivery but links them structurally through elected community representation and engagement with service providers. It aims to ensure that communities play a central role in developing and implementing strategies and taking responsibility for their own

improvement, and have an effective voice in all matters that affect individual and family well-being.

Ensuring that communities have a central role and responsibility for their own improvement involves changing the way governments and Aboriginal and Torres Strait Islander people do business together.

The framework provides an opportunity for communities individually and together to define future policy directions and outcomes for the region, building on their own traditions, values and assets, and assess outcomes.

The Murdi Paaki Regional Council aims to achieve the proposed changes in two stages, the first stage of which has involved the establishment of Community Working Parties representative of communities and joining with service providers to discuss strategies and priorities.

Using our present powers under the ATSIC Act, we would aim to give communities a direct voice in the council's decision-making through the establishment of a Regional Assembly, comprised of community representatives, to advise the Regional Council.

The next stage would involve negotiating with government appropriate changes to the ATSIC Act so that, in the future, community working parties (or councils) established within the governance framework, as an evolution of the present community working parties, directly elect a Regional Authority as the regional decision-making body with new powers of negotiation, coordination and funding to support communities.

Indigenous community councils would:

1. represent the interests of the Indigenous community, individuals and family;
2. elect a member to a regional body;
3. formulate a community plan;
4. monitor the performance of agencies and non-government organisations to ensure responsiveness to community plans and individual and family needs and report to the regional authority;
5. advise on funding priorities based on community needs;
6. establish and participate in community working parties to link the community, Government agencies and non-government organisations in the planning and service delivery process.

We do not see regional governance arrangements as an end in themselves. Their purpose is to ensure Aboriginal and Torres Strait Islander people can participate in and influence the decisions that affect their lives.

As we indicated in our submission to the ATSIC Review:

“The regional decision-making and service delivery arrangements aim to align Government program and service objectives with community needs and aspirations to overcome fragmentation, promote inter-sectoral collaboration, provide a mechanism

to pool funding to achieve a single stream of delivery and ensure accountability of all program and service providers to the community.”

A significant development in improving service delivery arrangements has been the establishment of the Indigenous Communities Coordination Task Force under the authority of the Council of Australian Governments. The work of the task force is improving inter-governmental cooperation and coordination of funding and projects at the regional and community levels. The Task Force supports cross portfolio initiatives in specific locations identified as trial sites to implement what is seen to be “a whole of government” approach to service delivery, based on agreements between government and communities.

The overall aim is to provide more flexible programs and services based on priorities agreed with communities through a partnership of shared responsibility.

COAG has recognised the Regional Council and Community Working Parties as the key frameworks of engagement by government in the business of Indigenous affairs.

We believe that a reconstituted Regional Council or Regional Authority with a direct community focus and representative of communities will provide an important mechanisms for governments to improve services in Indigenous communities.

The strategic position of Regional Councils

As instruments of both the government and Aboriginal and Torres Strait Islander people, Regional Councils are in a strategic position to provide leadership in a developmental process where needs are identified at the community level and regional and community plans provide the architecture for investment in community and individual welfare.

Achieving these goals requires mainstream agencies to align their outputs with community needs and priorities identified in regional plans.

To be effective, specific legislation may be required to impose obligations on mainstream service providers and ensure their accountability to Indigenous people and the government and connect regional governance and service delivery.

Inherent in this approach is the responsibility of representative institutions of regional governance engaging with local communities, agencies and non-government organisations to find sustainable ways to meet the needs of communities, individuals and families.

While services in the areas of health, education, employment, training and infrastructure will continue to be delivered by mainstream agencies, Regional Authorities should have the power to fund and coordinate specific development outcomes and to marshal and maximise economic opportunity to achieve them.

Within this framework mainstream agencies, non-government organisations and other institutions should work together within their own functional areas to build on

existing assets of land, culture, small business, community employment and local economies.

Land Councils, native title representative bodies, legal and health services, the Indigenous Land Corporation and Indigenous Business Australia are part of what has been described as “dispersed governance” where each participant body has a role to play.

Regional and Community Planning

Fundamental to the implementation of the governance and service delivery framework is the role of Regional Authorities in developing regional plans and in assisting communities in preparing community plans to facilitate the determination of needs, priorities and funding.

Murdi Paaki’s vision for an effective regional planning and service delivery process sees the regional plan being the indicator of need for the Region so that Commonwealth, State, Territory and Local Governments can “invest” in the plan’s vision of improved service delivery and capacity building initiatives to both enhance community and regional governance structures and to ensure the more efficient and effective delivery of services.

A key element in the regional planning and service delivery process will be business partnership agreements between Regional Authorities and agencies responsible for service delivery. The agreements will aim to align the outputs of government agencies and service providers with the functional priorities and outcomes determined by Regional Councils/Regional Authorities and communities.

The agreements might incorporate:

- the specific needs of Indigenous communities;
- key issues in community development including capacity building;
- priorities identified by communities;
- the actions needed to be taken to deliver improvements;
- how performance will be measured; and
- the outcome reporting process.

The council sees community planning as an evolving process as part of the essential engagement of agencies with communities. Its statutory underpinning will ensure there is greater consistency and understanding among service providers of the planning requirements and a better connection between national and regional priorities.

We believe that arrangements along these lines are a way to give Aboriginal and Torres Strait Islander people greater control and influence over service delivery involving Commonwealth outlays of \$2 billion and to improve the efficiency and effectiveness of their delivery and the quality of outcomes.

Regardless of structure, which may vary between regions, the issue is really about shifting decision-making powers from centralised control out to “where the people

live.” The starting point is what the people themselves determine is necessary to improve their livelihoods and well-being. It is about re-designing the rules of the game. It impacts on how policies are made, programs designed, and services delivered.

The proper coordination and integration of services to meet our needs on terms decided by and accountable to us does not involve throwing out the old and creating something new. It is about recognising what we already have and building on it.

The Murdi Paaki Regional Council is determined to provide a real and sustainable opportunity for Aboriginal and Torres Strait Islander communities to participate in community developments.

3. REGIONALISM AND THE ATSIC CONTEXT

So how do regionalism and Murdi Paaki's proposals fit within the wider context of ATSIC? Much of course will now depend on the Government's future decisions on ATSIC as a national representative body. Murdi Paaki's view is that regional authorities provide the foundation for any national approach in whatever form it might take.

The Murdi Paaki Regional Council envisages a more direct role for a national body in the machinery of government operating as a statutory authority with a Board and an administration.

A national body would provide the interface between regional councils and government in those matters that require a national perspective and advocacy. Its role might include the determination of relative funding need in conjunction with the Commonwealth Grants Commission.

Specific legislation could:

- embed the roles of the national body and Regional Councils in Commonwealth service delivery arrangements;
- integrate service delivery by all Commonwealth agencies.

The arrangements would:

- ensure direct involvement of the national body and Regional Councils in all service delivery;
- ensure the responsiveness and accountability of all Government agencies to Indigenous needs and, in turn, to the government for performance;
- give effect to the "joined up" government process of service delivery within which Indigenous people play a central role;
- ensure that all Commonwealth funded agencies are required to conform with the policies, plans and priorities of Regional Councils;
- provide for flexible constitutional arrangements for Regional Councils to be incorporated under the Act;
- require all agencies to enter into service delivery agreements with regional councils as a pre-requisite for assessing their performance;
- provide for Regional Council chairs to meet as a policy forum once a year.

Historically, the role of ATSIC and Regional Council has been founded on their special relationship with government and service providers. A statutory planning function has been an important element in the system.

A fundamental requirement for a national body and Regional Councils, in discharging their functions, is to continue to have funding and negotiation leverage with Commonwealth and State agencies.

The arrangements we have envisaged recognise the reciprocal roles of the two levels of the present ATSIC structure with a strong, clear and defined connection between

them. Credible participation of a reformed Aboriginal and Torres Strait Islander Commission in government decision-making at the national level would be supported by effective regional planning and coordination based on community representation and participation, integrated regional and community planning, coordinated service delivery, pooling of funds in regional budgets and advocacy.

The framework would clearly define within a national body and Regional Authorities the roles and responsibilities of elected representatives and the administration and between the setting of strategic directions and priorities and their implementation by all agencies.

Consistent with the broad principles outlined in the ATSIC Review discussion paper, the framework would:

- be based on local Indigenous communities;
- assist with establishing effective local community structures and effective community governance;
- assist with the identification of community needs, their priorities and the measures to address those needs;
- identify community needs that have regional significance;
- prepare regional plans to address the regional and local needs;
- assist local, state and national agencies to implement the regional needs plan;
- provide for state and national plans to be informed by the regional plans and undertake activities consistent with those plans.

We would see the framework being strengthened in a number ways:

- the more direct involvement of ATSIC in the machinery of government and recognition by all spheres of government of its role;
- the direct participation of the chairs of Regional Authorities in national policy making through a Regional Chairs' Forum, thus seeking to overcome the disconnect identified by the ATSIC Review Team between national and regional policies;
- increased resources to support regional and community planning where regional plans set the broad development framework and community plans translate regional outcomes into programs, projects and funding;
- complementary coordination arrangements within government involving a specific Indigenous Affairs Committee of Cabinet and an implementation and monitoring group of Secretaries, with ATSIC participating in both;
- the preparation by ATSIC of a "State of the Nation" report on the situation of Aboriginal and Torres Strait Islander people to coincide with the consideration of appropriations by Senate Estimates Committees.

The arrangements would acknowledge and recognise the shared responsibility of Commonwealth, State and local government towards Aboriginal and Torres Strait Islander people.

4. A TIME FOR CHANGE

We hear a lot of talk about the need for change, but not a lot happens. We tend to get more of the same. This causes a deep sense of frustration among Aboriginal communities as we continue to live out our lives in the circumstances of poverty identified by the Commonwealth Grants Commission's *Report on Indigenous Funding*.

Change is now focused on the future of ATSIC or the body to replace it.

We believe that the final outcome of the ATSIC Review, now in the hands of government, is so significant for the future of Aboriginal and Torres Strait Islander people that the government should issue a white paper on its intentions before implementing them and to negotiate bi-partisan support, which seems more possible today.

It is now almost a decade since Commonwealth, State and Territory governments came together to endorse what has become known as the *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal persons and Torres Strait Islanders*.

This land mark document heralded great potential for inter-governmental cooperation, a corner stone of the Australian federal system. Its opening statement recognised "the expressed wish of Aboriginal peoples and Torres Strait Islanders for a commitment to change." We seem to have got a commitment without change.

To my mind the National Commitment was fundamentally about good governance in Indigenous affairs, at the centre of which was the newly created Aboriginal and Torres Strait Islander Commission and Regional Councils. It has taken a decade to fully comprehend the potential of the ATSIC system as a system of governance for Indigenous people.

We may never be able to satisfactorily influence the way governments carve up the national cake and distribute resources, but we can have a more direct say in the way those resources are used to our benefit.

Good governance is a tool for achieving a better result through strategic and coordinated management of all the inputs. It is even better governance when those directions are determined by the people involved.

Ensuring effective governance arrangements, and building supporting frameworks of governance, to empower Aboriginal and Torres Strait Islander people have the potential to set new directions in Indigenous Affairs in Australia, because there is a consensus that such a fundamental change is necessary.

Experience has shown that within the framework of the ATSIC Act, Commonwealth, State and local government can work together through a process of service agreements, pooled funding and integration of programs and services. Experience has

also shown that when Aboriginal people are put in control, the outcomes are improved. The Coordinated Health Care trials have demonstrated this.

The Council of Australian Governments has itself placed an emphasis on improving governance. The council's approach is based on partnerships, shared responsibilities with indigenous communities, program flexibility and coordination between government agencies, with a focus on local communities and outcomes.

No-one will disagree with that.

What is lacking is a coherent policy framework to bring about the change, not through another series of pilots but through implementation of the principles of self determination.

Conclusion

There is, of course, no "one size fits all." Aboriginal society is so diverse that legislative flexibility is required to ensure that structures are appropriate to the special circumstances of individual communities and regions.

Amendments to the ATSIC Act, or replacement legislation, could permit constitutions of regional councils that reflect the traditions of the communities they serve. This is already the case in the Northern Territory and Queensland under community services legislation.

It is not unreasonable that a regional governance body should have the same flexibility to enhance its legitimacy and credibility among its constituents.

Participating in, exercising control over and being responsible for the design, delivery and management of programs is a pathway to self-determination. This should form the basis of any new relationship between Indigenous people and government.

It is time now for a renewed national commitment to bring this about.