

## CHAPTER XII

### **A Perspective on a National Body for Aboriginal and Torres Strait Islander People**

As this paper has explored, a significant deficiency with Indigenous policy in Australia is the absence of a national body that represents and advocates for the interests of Aboriginal and Torres Strait Islander People. A national body underpinned by regional and local arrangements would provide the conduit and engagement framework that would be of huge benefit to Aboriginal people and Australian, state, territory and local governments, creating the environment for closer and more realistic relationships and partnerships.

Reflecting on the ATSIC review, *In the Hands of the Regions*, any national body should be founded on and grow out of regional and community participation and expectations with the report concluding: ‘ATSIC needs to evolve, directly shaped by Aboriginal and Torres Strait Islander people at the regional level.’<sup>261</sup>

There are various models which might be appropriate that have been touched on during this paper. They range from the direct election of a representative body by Aboriginal and Torres Strait Islander people voting nationally in zones or divisions, to the coming together of representatives of peak bodies, such as Land Councils in a coalition of interests. Drawing on overseas experience, there could be a National Assembly of First Nations, with an independent Secretariat, funded by government, to undertake ‘advocacy’ projects and be represented on the Commission.

As time moves on since the abolition of ATSIC, the voice of Aboriginal people remains relatively silent and more alarmingly, suppressed by an ideology that purports that the ‘collective’ or ‘communal’ approach is fraught with failure, aligning it with ‘communism’, with its institutions often portrayed as being obstructionist, communal, feudal socialist groups.

Recent events and new policy announcements such as income management being imposed on Aboriginal and Torres Strait Islander people, makes this an opportune time to consider what needs to be done to establish a national body, what its functions should be and how its relationship to Aboriginal and Torres Strait Islander would be defined?.

Reflecting on the ATSIC experience raises some questions and ideas on what it may look like. These include and are not limited to:

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<sup>261</sup> In the Hands of the Regions – A New ATSIC, Report of the Review of the Aboriginal and Torres Strait Islander Commission, November 2003.

*Reconnecting Government and Aboriginal and Torres Strait Islander People: Implementing a New Order of Indigenous Governance*

- Whether the National Body should be enshrined in legislation or not?
- Whether the National Body should be incorporated or not?
- What is or what should be the proposed composition and how is that composition constructed?
- Who has ownership of the arrangements (i.e. the people or government)?
- What functions should it have?
- How it is resourced; and
- Whether it has Statutory Powers?

Any new arrangement requires parameters, the outer reaches of which would be the creation of a governance framework that connects (or in this circumstance, reconnects) Aboriginal and Torres Strait Islander people to any government process that develops policy, determines priorities and makes decisions about their own lives.

The governance framework itself can be the overarching policy that creates the environments which establishes bodies of interest, be they in the context of cultural, social or economic purposes. Constructing such a body could involve:

- Focusing on cultural values based on traditional owner groups focusing on native title and cultural and heritage matters;
- Focusing on social development based on Aboriginal people regardless of who they are, where they live and where they come from, with an emphasis on citizen entitlements and services; and
- Focusing on a combination of both the above, to be able to share in the wealth and prosperity our country has to offer.

The current national, regional and local arrangements would have far more relevance and legitimacy if Aboriginal and Torres Strait Islander people were the architects of what those arrangements should look like, creating a greater sense of participation, responsibility and ownership and of being in charge of their own development. What functions a national body should undertake should be guided by its composition.

The most apparent interaction that the majority of Aboriginal people have is citizen entitlements and services, the need to have access to the same housing, employment, health and education services as other Australians. There is also the need to demand and have access to other crucial entitlements such as services for families and young people, specialist legal services, drug and alcohol services, domestic violence services, but most importantly the service of protection, to be able to live in peace and safety.

A national body, unlike ATSIC, should not be burdened with the responsibility of delivering services and programs. Its role should be purely strategic. A national body should be resourced sufficiently to work closely with government and non-government services, and corporate and philanthropic groups through high level strategic arrangements.

A national body ideally would have close operational links with groups and key agencies and be tasked with the responsibilities such as:

- Planning;
- Priority Determination;
- Advocacy;
- Monitoring and Evaluation; and
- Accountability Powers.

A national body to establish legitimacy and its own jurisdiction could develop its own 'Governance Charter.' The Charter could be set out in two parts:

- The relationships a national body would have with governments and other service providers about the access to and the delivery of programs and services; and
- The interactions and relationships that Aboriginal people have with themselves, internally within their own communities, externally across a region and nationally across the country (this second part of the Charter is specific to Aboriginal people ie 'blackfella business' and has nothing to do with government or associated groups).

Transparency, Integrity, Honesty, Respect, Diligence, Conscientiousness and loyalty to the public interest form part of the foundation principles for good governance. These principles are also inherent in Aboriginal tradition, and coupled with the legitimacy derived through a system of process's and structures owned by Aboriginal people at the regional and community level, promotes what can be considered a national body, representative of its people for whatever issues it wishes to pursue.

A national body must have flexibility underpinning its foundation membership and not be too rigid about specifics for what regional and community arrangements should look like. The national arrangements should be able to adapt the differing characteristics of models of governance that are already developed or are being developed across the country.

The Assembly is an unincorporated, unlegislated representative body underpinned by community governance forums. Its intention to remain unincorporated and not be embedded in a legislative framework is deliberate. This view is simple: while the Assembly and Community Governance Forums stay outside the legislative arrangements, they will never be abolished by any Parliament as has been done to ATSIIC, the *Northern Territory Land Rights Act 1976* (Cth), and the *Native Title Act 1993* (Cth) which are reason enough when considering? whether a national body be enshrined in legislation or not.

The deliberate intention not to handle funding or hold title negates the need to be incorporated. It also prevents an administrator being appointed to control the affairs of the organisation. To bring legality to their operations only requires the identification of a corporation within the region to handle its administrative requirements. Success or failure of the Murdi Paaki model depends on the

participation of Aboriginal people in those processes, not because it failed to fulfil its corporate compliance obligations or non adherence to its legislative requirements.

Another aspect of the need or desire for a national body is the importance of continued Indigenous involvement and exposure to international arrangements. We live in the international community and if Indigenous people don't participate in it, they will be deprived of opportunities to move forward in their lives.

The presence of a national body that is truly reflective of its people, at local, regional and national levels, securing speaking rights at the United Nations, is a position to aspire to reach. The performance and ultimate success of a national body would also be determined by access and availability to a required level of resources to meet its obligations and perform its functions.

Resources could come from a variety of sources, and depending on the marketing and communication of the products and characteristics of such a national structure, it could either attract resources to it in the form of sponsorship or be able to sell a product so that functions are purchased by external sources.

Sponsorship could be sought from the corporate and philanthropic sectors for specific capacity strengthening programs of Aboriginal and Torres Strait Islander people, ideally focusing on governance and leadership. Governments could 'purchase' services such as planning and priority setting from a national body.

Importantly, though is that a national body could easily be resourced by well established Aboriginal Land Councils across Australia. The NSW Aboriginal Land Council, Cape York Land Council, Northern and Central Land Councils in the Northern Territory and the Kimberly Land Council, could all procure from their own existing resources, the required level of financial assistance to ensure a national body could operate.