

## **FILLING THE GAPS AND SUPPORTING THE SUBVERSIVES; THE ROLE OF PHILANTHROPIC AND CORPORATE ORGANIZATIONS IN INDIGENOUS SELF-DETERMINATION**

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One way to begin a paper such as this would be to highlight the socio-economic disparity between Indigenous and non-Indigenous Australians. It is a familiarity with the problems and statistics and concern over our continuing position as the poorest and most marginalised sector of the Australian community that attracts philanthropic and interested corporations. Rather than rehashing statistical data, this paper will focus on the limitations of the two places that people usually turn to when seeking to change those statistics – ATSI and the government – to deliver long-term and sustained solutions. I then want to talk about the substance of self-determination and then conclude by discussing the role of the philanthropic and corporate sector in achieving this Indigenous self-determination.

### **I. The Tied Hands Of ATSI**

There is some confusion about ATSI's roles and functions and it is often assumed that it can fix any problem. What is often not appreciated is that, although it has primary responsibility for infrastructure and CDEP, it has only supplementary responsibility for other areas – housing, legal services, domestic violence, and youth. It has no fiscal responsibility for the areas of health and education. In addition, last year, although its' expenditure was \$1.2 billion, \$857 million<sup>1</sup> was quarantined, leaving only \$343 million in discretionary funds. This has to include \$155 million for operational costs and \$16 million in federal government taxes. So effectively, there was only \$172 million in its discretionary fund. It should be noted that when \$400 million was cut from the ATSI budget by the federal government in 1996, most of the programs that were cut were infrastructure programs. These were programs that focused on capacity building in communities and for individuals.

I will not discuss other problems with ATSI, who has always been a unique experiment in public administration, and only say that the current review is timely and, as then Acting CEO Geoff Scott stated in a memo to ATSI staff on 24 May 2002:

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<sup>1</sup> This is the amount for housing loans, native title, community housing, infrastructure and CDEP that are all fixed by government legislation or budgetary allocation.

“The review should not be seen as a threat but an opportunity to objectively and constructively examine the role and responsibilities of ATSIC ... [A]n assessment of the roles and functions should be welcomed, given the level of misunderstanding and concern expressed continually both internally and externally in relation to the whole of government effort and the capacity to effectively fulfil respective responsibilities.”

## II. The Limitations Of “Practical Reconciliation”

If we acknowledge the limitations on ATSIC’s role, we can turn with more scrutiny to Government policy. The Federal Government’s current policy on Indigenous issues is one of “practical reconciliation”. This “practical reconciliation” describes a policy of funding targeted areas that go to the core of socio-economic disadvantage, namely, employment, education, health and housing. To this end, Prime Minister John Howard has pointed to the amount of dollars, \$2.3 billion, he has spent on “Indigenous-specific programs.”

What Howard did not detail is that part of this \$2.3 billion went towards defending the stolen generations case brought by Peter Gunner and Lorna Cabillo in the Northern Territory<sup>2</sup> and went into the various sections of the government arm that were actively trying to defeat native title claims. That is, counted in with the money allocated for specific policy areas was the money spent preventing the recognition and protection of Indigenous rights.

The policy of “practical reconciliation” views current socio-economic disparity as the result of past cultural conflict and unsympathetic policy making and it says that this has been instrumental in establishing a welfare mentality. It further asserts that this can be redressed by a more benevolent legislature.

It is absolutely correct that past government policies such as the child removal practices have contributed to the socio-economic inequalities and systemic racism experienced in Indigenous communities and families today. But this has been compounded by the absence of a rights framework that can protect from unfair and racist policy making.

“Practical reconciliation” does not attack the systemic and institutionalised impediments to socio-economic development. Without a rights framework that works, there is no ability to create and protect rights to economic self-sufficiency and Indigenous people, families and communities will only be dependant on welfare. Even worse, they will remain dependant upon the benevolence of the government.

What I am saying should not be read as a rejection of the right to access welfare. Rather, it is a criticism of policy made in a reactionary way without a view to larger, long-term, goals and aspirations. As can be seen by the contents of

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<sup>2</sup> *Cubillo v Commonwealth* (2000) 103 FCR 1

the *Native Title Amendment Act 1998 (Cth)*, the days of governments actively truncating and extinguishing Indigenous rights are far from over and in that climate, asking us to put our faith in the benevolence of the government will make many of us very nervous.

Of course, this leads to a more substantive problem and that is the inability to maintain a sustained policy program when governments change. Each time there is a change of government, the new government will throw out the policies of the previous government and reinvent the wheel through the implementation of a new policy agenda. In this way, government policy is usually short term, underdeveloped and not about long term partnerships.

### **III. Self-Determination In Indigenous Communities**

We can never remind ourselves too often before launching in to sweeping generalisations at the national level that Indigenous communities are diverse in culture and circumstance and their specific needs different. Communities that are enclaves within urban areas, finding themselves a sub-group of a larger, non-Indigenous political unit, have different political needs and strategies to Indigenous communities living in remote and distinct geographical areas where they may already be engaged in initiatives that can be characterised as decentralised, self-governing actions.

Despite these cultural, demographic and geographical differences, there is much common ground in responses to the questions that seek inspirational answers: “What do you want?”, “When you say “Aboriginal sovereignty”, what do you mean?” and “What do you want in a treaty?” Without implying this is the definite and definitive list of Indigenous claims, we can map out the likely content of self-determination. For example, Patrick Dodson’s 4th Vincent Lingiari Lecture includes identified points that may be included in a treaty and this is a useful guide. He mentioned the following rights:

- The right to all the common human rights and fundamental freedoms recognized in national and international law, as well as to our distinct rights as Indigenous peoples;
- The right to maintain and develop our distinct characteristics and identities, whilst taking part in the life of the country as a whole;
- The right to self-determination. A right to negotiate our political status and to pursue economic, social and cultural development;
- The right to our own laws, customs and traditions, and equality before the national law;
- The right to our unique cultural traditions and customs. The right to own and control our cultural and intellectual property;
- The right to our spiritual and religious traditions;

- The right to languages, histories, stories, oral traditions and names for people and places;
- The right to participate in law and policy-making and in decisions that affect us;
- The right to determine priorities and strategies for economic and social development;
- The right to all forms and levels of public education and training;
- The right to own and control the use of our land, waters and other resources;
- The right to self-government and autonomy in relation to our own affairs;
- Constitutional recognition; and
- A framework for the negotiation of agreements and a treaty.<sup>3</sup>

We can see the parameters of Patrick Dodson's claims as a spectrum of rights. The rights enmeshed in the concept of "self-determination" include, I would argue, everything from the right not to be discriminated against, the rights to enjoy language, culture and heritage, our rights to land, seas, waters and natural resources, the right to be educated and to work, the right to be economically self-sufficient, the right to be involved with decision-making processes that impact upon our lives, and the right to govern and manage our own affairs and our own communities. These rights that can be unpacked from the concept of "{self-determination}" point to a vision that promotes increased Indigenous autonomy *within* the structures of the Australian state.

This is an approach that takes the starting point for self-determination from the way in which it is expressed by Indigenous peoples at a grass-roots level, rather than by imposing concepts as they have been developed in international forums on to Indigenous communities. So it is a ground-up, rather than top-down approach.

#### **IV. The Subversive Agency Of Indigenous People**

This ground-up approach is consistent with what I call the subversive agency of Indigenous people. Failure by governments to deal with social problems is often compensated by individuals who decide to take action at a community level and set up community-based initiatives. For example, Marcia Langton, Judy Atkinson, Boni Robertson, Jackie Huggins, Winsome Matthews and Brownwyn Fredricks and many, many others have been quantifying, recording, offering suggestions and finding solutions to endemic levels of violence in Indigenous communities. These same women and their colleagues are often the ones who set up the community-based initiatives and institutions, the dry-out shelters, the medical centres, the community buses when government policy fails.

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<sup>3</sup> Patrick Dodson, "Until the Chains are Broken", 4th Vincent Lingiari Memorial Lecture, 1999.

This kind of initiative could benefit from philanthropic or corporate support. It encourages Indigenous people to find solutions to social and economic problems, it allows us to do it in a way that we define and it delivers the agenda and responding to their needs ought to be supported. They should be encouraged because they move away from a welfare mentality, foster self-determination and may bring about better outcomes. In addition, sustained support from philanthropic or corporate sectors can avoid the problem of policy and program changes with every change of government. That is, a sustained commitment for the long-term to ensure the fostering and success of community projects is easier to achieve from non-government funding.

## **V. The Role Of Philanthropic And Corporate Entities In Promoting Self-Determination**

I want to conclude by noting that philanthropic and corporate organisations can foster this development but the relationship between the donors and the beneficiaries had to be one where those seeking to put money in to the community have trust that Indigenous people can decide the priorities and solutions. Investment funds and expertise will not work if the money injected in to communities is guided by what outsiders think are the priorities and solutions. In order to avoid this benevolent paternalism, it is important that a relationship be developed either with Indigenous communities and leaders and/or Indigenous philanthropic organisations. These relationships need to be guided by Indigenous aspirations.

One example of this is the Black Women's Action in Education Foundation. Dr. Roberta Sykes and other black women established this organisation to fill a gap in funding for overseas studies for Indigenous students. There was no federal government program that provided support. The Board is made up of Indigenous women who set the direction choose the applicants and funding is not just for women but part of the criteria is that the research has to benefit Indigenous women. The Foundation's aims have been flexible and extended when funding for education may fall outside of it and the definitions of "education" and "benefit" have been broadly defined.

It is also a relationship and enterprise that needs to be both practical and realistic. There needs to be an understanding that, because many of these initiatives will be new and innovative, there may be failures. And as disappointing as that may be for those who have invested time and money, this has to be acknowledged as a natural part of finding the best and most workable solutions to issues where government policy has failed for decades and sometimes centuries.

In light of this, it becomes all the more important to keep pushing the successes and applying the same principles that guide commercial decisions. It means not expecting rewards for short term investments and understanding that to achieve results there needs to be a continual and trusting and committed

relationship that understands that listening, flexibility and innovation as a basis for programs and support will only bring solutions in the long term. And these will be long term solutions that government is ill equipped to deliver.