

# Jumbunna Indigenous House of Learning

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The 'New Mainstreaming' of Indigenous Affairs  
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# 1. INTRODUCTION

In April 2004, the Prime Minister, John Howard, and the Minister for Immigration, Multicultural and Indigenous Affairs, Senator Amanda Vanstone, announced the Australian Government's intentions to abolish the Aboriginal and Torres Strait Islander Commission (ATSIC) and its program delivery arm, Aboriginal and Torres Strait Islander Services (ATSIS), and to transfer funding and responsibility for its programs to mainstream government departments. They stated that mainstream government departments would be required to adopt a co-ordinated approach to the delivery of services to Indigenous people, and that an Indigenous advisory body, the National Indigenous Council, would be appointed. A significant public focus of what the government refers to as its 'new mainstreaming' approach has been the negotiation of individual Shared Responsibility Agreements with Indigenous communities, whereby communities commit to behavioural change or other actions in exchange for extra government funding for infrastructure or services.

A year on at the National Reconciliation Planning Workshop convened by Reconciliation Australia, Senator Vanstone addressed an audience of senior Indigenous leaders and other Indigenous and non-Indigenous Australians with experience in Indigenous affairs. She stated that 'we are clearly at a point in history where Australia is embarking on a new conversation in Indigenous affairs':

It's a conversation based on an almost universal belief that the approach of the past 30 or more years has not delivered the results we would have hoped for. ...

This is a new way of doing business and it is a new conversation, going direct to communities. For many, the first time they've been given the opportunity to express where they want to go and how they see government can play a role in fixing their issues.<sup>1</sup>

The abolition of ATSIC and the introduction of such wide-ranging new arrangements have triggered extensive debate regarding how best to address the levels of disadvantage experienced by Aboriginal and Torres Strait Islander people in key areas such as health, housing, education and employment - whether services and programs are more effectively delivered through Indigenous organisations, or Indigenous-specific programs in mainstream agencies; whether Indigenous people should be in control of the development, management, implementation and evaluation of policy and programs for

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<sup>1</sup> Quoted in Kim Landers, 'Vanstone snubbed at reconciliation talks', *The World Today*, ABC Radio, 31 May 2005, <http://www.abc.net.au/worldtoday/content/2005/s1381072.htm>

Indigenous communities; and whether this shift to mainstreaming is in fact a ‘new conversation’ or a return to assimilationist government approaches of the past.

This paper provides an overview of the history of government administration of Indigenous affairs over the past 30 years, including Indigenous representative structures. It canvasses the findings of government inquiries and reports into the provision of programs and services to Indigenous people and evidence about what has or hasn’t been effective in Indigenous policy, including the role of mainstream government agencies. Against this backdrop, the paper then provides an analysis of the Australian Government’s ‘new mainstreaming’ arrangements and their implementation to date, covering questions such as what has motivated the policy shift to mainstreaming; whether the past 30 years of Indigenous policy has failed; the difference between old and new mainstreaming; and whether this really is a ‘new conversation’ in Indigenous policy.

## **2. HISTORY OF THE ADMINISTRATION OF INDIGENOUS AFFAIRS**

Prior to the 1967 Referendum, the lives of Aboriginal and Torres Strait Islander people were regulated by the laws and policies of the states and territories. The Commonwealth Government’s only role was in the Northern Territory and the Australian Capital Territory. Up until the mid-1950s, a myriad of laws and bureaucratic regulations dictated where Indigenous people lived; whom they married and associated with; where they worked and what was done with their earnings – if they were paid at all.<sup>2</sup> Indigenous people had no industrial protection, and were neither guaranteed a minimum wage nor eligible for social security payments.<sup>3</sup> Formal restrictions on the right to vote in state elections and legislation sanctioning the forced removal of Indigenous children were removed from the late 1950s and through the 1960s.<sup>4</sup> The main policy approach by Australian governments of the twentieth century towards Aboriginal and Torres Strait Islander people was that of integration and assimilation into mainstream non-Indigenous society, underpinned by a belief of the inferiority of Indigenous culture, law and values.

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<sup>2</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Fifth Report 1997*, Human Rights and Equal Opportunity Commission, 1997, p. 22.

<sup>3</sup> Ibid. In 1959 most of the restrictions which had prevented Indigenous people from receiving social security were removed, however ‘nomadic or primitive’ Aboriginal people were still denied social security at that time.

<sup>4</sup> Ibid.

The 1967 Referendum amended the Commonwealth Constitution to allow Parliament to make laws relating to Indigenous people and to count Indigenous Australians in the national Census. The Commonwealth Government decided that the administration of Indigenous affairs would remain with the states, announcing that they would work, ‘as we have in the past, in co-operation with the states’.<sup>5</sup> However, the former Aboriginal and Torres Strait Islander Social Justice Commissioner described the impact of the Referendum not as improving Indigenous affairs, but as adding ‘yet another complication to our lives’, placing Indigenous affairs ‘on the fault line of federalism. ... Lack of co-ordination may sound like a dry administrative critique. In fact, its effects are felt in the most practical and personal aspects of our lives.’<sup>6</sup>

Following the Referendum, the Gorton Government did appoint a ‘Minister in Charge of Aboriginal Affairs under the Prime Minister’ and established the Council of Aboriginal Affairs (CAA), which was comprised of three non-Indigenous men appointed by the Government to advise on national policy and on working co-operatively with the state governments on Indigenous affairs.<sup>7</sup> A small Office of Aboriginal Affairs was also established to implement policy, facilitate liaison between the Commonwealth and the states, and to administer legislation within the portfolio.<sup>8</sup> Indigenous people had no formal role in these bodies.

A major shift came with the election of the Whitlam Government, when the policy of assimilation was replaced, at least officially, by that of self-determination. The two main expressions of this in Indigenous policy were direct funding of incorporated Indigenous organisations and communities, and the establishment of elected Indigenous advisory and policy-making bodies within the bureaucracy.<sup>9</sup> There was a gradual shift in policy and service delivery as a result, although many Indigenous people would dispute that the policy genuinely reflected their conceptions of and aspirations to self-determination. However, the results of this shift have been described as providing ‘ample evidence that Indigenous organisations deliver more effective services than those available in the mainstream’.<sup>10</sup>

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<sup>5</sup> Heather Goodall, *Invasion to Embassy: Land in Aboriginal Politics in New South Wales, 1770-1972*, Allen and Unwin, 1996, p. 327.

<sup>6</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Fifth Report 1997*, Human Rights and Equal Opportunity Commission, 1997, p. 30.

<sup>7</sup> Angela Pratt and Scott Bennett, ‘The end of ATSIC and the future administration of Indigenous affairs’, *Current Issues Brief* No. 4 2005-05, Parliamentary Library Information and Research Services, p. 3.

<sup>8</sup> *Ibid.*

<sup>9</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Fifth Report 1997*, Human Rights and Equal Opportunity Commission, 1997, p. 39.

<sup>10</sup> *Ibid.*

The Department of Aboriginal Affairs (DAA) was established to replace the OAA and CAA, with its role being to provide advice to the Government on Indigenous policy, as well as to administer such policy. It remained the central Commonwealth Indigenous affairs agency until ATSIC was established. The National Aboriginal Consultative Committee (NACC) was formed in 1973 to take Aboriginal views into account in developing policy and implementing programs, with Aboriginal representatives being elected by communities to attend an annual meeting. However, the NACC had substantial resource and practical limitations. The National Aboriginal Conference (NAC) was then established by the Fraser Government in 1977 to replace the NACC as the ‘channel of communication’ between the Commonwealth Government and Aboriginal communities. However, both the NACC and the NAC had an uneasy relationship with Governments of both sides of politics, with accusations from Indigenous people of inadequate funding and of Ministers meddling in its affairs.<sup>11</sup> Criticisms were also raised that members of the NAC were not well-connected to their constituent communities.<sup>12</sup>

In 1980, the Aboriginal Development Commission (ADC) was established. The ADC was a statutory authority run by a board of ten part-time Indigenous commissioners appointed by the Government, which managed a small amount of development-oriented Indigenous affairs programs, including the administration of loans and grants for Indigenous housing and business enterprises.<sup>13</sup> The 1984 Coombs Report into the NAC found that it was a flawed body, and proposed a new representative body, the National Aboriginal Congress, and advocated consultations with Aboriginal communities over the form this should take.<sup>14</sup> The NAC was disbanded in 1985.

These various Indigenous advisory bodies set up by Commonwealth Governments have been described as little more than token attempts at Indigenous participation, characterised by their remoteness from decision-making; their lack of actual power to influence government policy; and their lack of

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<sup>11</sup> Angela Pratt and Scott Bennett, ‘The end of ATSIC and the future administration of Indigenous affairs’, *Current Issues Brief* No. 4 2005-05, Parliamentary Library Information and Research Services, p. 5.

<sup>12</sup> *Ibid.*

<sup>13</sup> Will Sanders, ‘Reconciling Public Accountability and Aboriginal Self-Determination/Self-Management: Is ATSIC Succeeding?’, *Australian Journal of Public Administration*, vol. 53, no. 4, December 1994, p. 487, quoted in Angela Pratt and Scott Bennett, ‘The end of ATSIC and the future administration of Indigenous affairs’, *Current Issues Brief* No. 4 2005-05, Parliamentary Library Information and Research Services, p. 5.

<sup>14</sup> H.C. Coombs, *The Role of the National Aboriginal Conference*, AGPS, Canberra, 1984.

independent resources.<sup>15</sup> However it has also been noted that since 1972, there was almost always an *elected* national Indigenous body providing advice to government.<sup>16</sup>

## ATSIC

In 1988, the Minister for Aboriginal Affairs introduced the Bill to establish the Aboriginal and Torres Strait Islander Commission (ATSIC). After extensive debate and over 90 amendments, ATSIC was eventually established in March 1990, bringing together the functions previously handled by the DAA and ADC. The establishment of ATSIC undoubtedly marked a significant change in the administration of Indigenous affairs, with a departmental arm within the same organisation as an elected Indigenous arm responsible for setting policies and priorities.<sup>17</sup> The John Howard-led Opposition at that time was opposed to the concept of ATSIC, objecting to any body which was perceived to give Indigenous people ‘separate’ status or in his words, ‘divide Australian against Australian’ by creating a ‘black nation within the Australian nation’.<sup>18</sup>

The *Aboriginal and Torres Strait Islander Commission Act 1989* sets out ATSIC’s objectives as to: ensure maximum participation of Aboriginal and Torres Strait Islander people in government policy formulation and implementation; promote Indigenous self-management and self-sufficiency; further Indigenous economic, social and cultural development; and ensure co-ordination of Commonwealth, state, territory and local government policy affecting Indigenous people. Its dual representative and administrative roles were perceived as its strength at the time it was established, giving genuine Indigenous power over management of and decision-making in Indigenous affairs for the first time.<sup>19</sup> However, over time this also became a source of tension and criticism for ATSIC, as it sought to be accountable to both governments and Indigenous people.

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<sup>15</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Fifth Report 1997*, Human Rights and Equal Opportunity Commission, 1997, pp. 43-44.

<sup>16</sup> Angela Pratt and Scott Bennett, ‘The end of ATSIC and the future administration of Indigenous affairs’, *Current Issues Brief* No. 4 2005-05, Parliamentary Library Information and Research Services, p. 6. The exception is the period between the NAC’s disbandment and the creation of ATSIC.

<sup>17</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Fifth Report 1997*, Human Rights and Equal Opportunity Commission, 1997, p. 45.

<sup>18</sup> The Hon. John Howard, ‘Ministerial Statement: Administration of Aboriginal Affairs’, House of Representatives, *Debates*, 11 April 1989, p. 1328, quoted in Angela Pratt and Scott Bennett, ‘The end of ATSIC and the future administration of Indigenous affairs’, *Current Issues Brief* No. 4 2005-05, Parliamentary Library Information and Research Services, p. 6.

<sup>19</sup> Angela Pratt and Scott Bennett, ‘The end of ATSIC and the future administration of Indigenous affairs’, *Current Issues Brief* No. 4 2005-05, Parliamentary Library Information and Research Services, p. 8.

ATSIC did not have responsibility for all areas of government funded Indigenous-specific programs and services. In 1990, ATSIC took over responsibility for Indigenous health from the then Commonwealth Department of Aboriginal Affairs. The Keating Government transferred responsibility for health back to the then Department of Human Services and Health in 1995. ATSIC also had no direct portfolio responsibility for education or social security. The majority of ATSIC's budget was required by the government to be spent on the Community Development Employment Projects (CDEP) scheme, and the Community Housing and Infrastructure Program (CHIP). The remaining 20 per cent funded a range of programs including those focused on the preservation and promotion of Indigenous culture and heritage, and the advancement of Indigenous rights,<sup>20</sup> including at an international level. Throughout its existence, ATSIC was subject to intense public and political scrutiny, particularly in the areas of expenditure and accountability.<sup>21</sup> ATSIC was regularly the target of criticism by Indigenous and non-Indigenous Australians due to a perceived failure of government policy and funding to adequately address Indigenous disadvantage.

### **Commonwealth Grants Commission report**

In November 1999, the Commonwealth Grants Commission was requested by the Commonwealth Government to conduct an inquiry into the distribution of funding for programs providing services for Aboriginal and Torres Strait Islander people. In March 2001, its *Report on Indigenous funding* made extensive findings, including that:

- From all available evidence, mainstream services do not meet the needs of Indigenous people to the same extent as they meet the needs of non-Indigenous people;
- Indigenous Australians in all regions access mainstream services at very much lower rates than non-Indigenous people.
- Mainstream programs provided by the Commonwealth do not adequately meet the needs of Indigenous people because of barriers to access. These barriers include the way programs are designed, how they are funded, how they are presented and their cost to users. In remote areas, there are additional barriers to access arising from the lack of services and long distances necessary to access those that do exist. The inequities resulting from the low level of access to mainstream programs are compounded by the high levels of disadvantage experienced by Indigenous people.
- Commonwealth Indigenous-specific programs are intended to provide targeted assistance to Indigenous people to supplement the delivery of services through mainstream programs. These

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<sup>20</sup> Ibid., p. 9.

<sup>21</sup> Ibid.



programs are a recognition of the special needs of Indigenous people associated with, and in response to, their levels of disadvantage. The failure of mainstream programs to effectively address needs of Indigenous people means that Indigenous-specific programs are expected to do more than they were designed for, and, as a consequence, focus less on the disadvantaged.

- Achieving equitable access for Indigenous people to mainstream services is the highest priority, and this requires actions to:
  - Ensure all spheres of government recognise their responsibilities through mainstream programs, and the appropriate relationship between mainstream and Indigenous-specific programs;
  - Review all aspects of mainstream service delivery to ensure they are sensitive to the special needs and requirements of Indigenous people; and
  - Involve Indigenous people in the design and delivery of mainstream services.
- Indigenous control of, or strong influence over, service delivery expenditure and regional and local service delivery arrangements that emphasise community development, inter-agency cooperation and general effectiveness.<sup>22</sup>

## COAG Trials

In November 2000, the Council of Australian Governments (COAG) agreed on a framework which committed governments to work in partnership to advance reconciliation.<sup>23</sup> This framework established three priority areas for government action:

- Investing in community leadership initiatives;
- Reviewing and re-engineering programmes and services to ensure they deliver practical measures that support families, children and young people. In particular, governments agreed to look at measures for tackling family violence, drug and alcohol dependency and other symptoms of community dysfunction; and
- Forging greater links between the business sector and indigenous communities to help promote economic independence.<sup>24</sup>

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<sup>22</sup> Commonwealth Grants Commission, *Report of Indigenous Funding: Main Findings*, 2001, [http://www.cgc.gov.au/IFI\\_Pages/ifi\\_final\\_report\\_voll.htm](http://www.cgc.gov.au/IFI_Pages/ifi_final_report_voll.htm), pp. xv-xix.

<sup>23</sup> <http://www.coag.gov.au/meetings/031100/#reconciliation>

<sup>24</sup> Council of Australian Governments, *Communiqué*, 3 November 2000, 4 December 2003, <http://www.coag.gov.au/meetings/031100/coag031100.pdf>.

At its April 2002 meeting, COAG reaffirmed its commitment to advance reconciliation and agreed to trial a whole-of-government cooperative approach in up to ten communities or regions across Australia. The aim of the trials was ‘to improve the way governments interact with each other and with communities to deliver more effective responses to the needs of indigenous Australians’.<sup>25</sup> The eight trial sites were chosen as:

1. Murdi Paaki Region (New South Wales)
2. Wadeye (Northern Territory);
3. Shepparton (Victoria);
4. Cape York (Queensland);
5. Anangu Pitjantjatjara Lands (South Australia);
6. East Kimberley region (Western Australia);
7. Northern Tasmania; and
8. Australian Capital Territory.

The trial by COAG acknowledged that in the past, governments have not worked in a co-ordinated fashion with Indigenous communities in delivering programs and services. A twofold method was proposed under the COAG initiative – for governments to work together better at all levels and across all departments and agencies; and for Indigenous communities and governments to work in partnership and share responsibility for achieving outcomes and building the capacity of people in communities to manage their own affairs.<sup>26</sup> The approach of the trials was promoted as ‘Shared Responsibility – Shared Future’, involving ‘communities negotiating as equal partners with government’. This partnership approach was formalised in each trial site through the negotiation of a Shared Responsibility Agreement (SRA) between governments and Indigenous people in those sites.<sup>27</sup>

### **Overcoming Indigenous Disadvantage**

In April 2002, COAG commissioned the Steering Committee for the Review of Government Service Provision to produce a regular report against key indicators of Indigenous disadvantage.<sup>28</sup> The aim of this report was to inform Australian governments about whether policy programs and interventions are

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<sup>25</sup> Council of Australian Governments, *Communiqué*, 5 April 2002, <http://www.coag.gov.au/meetings/050402/#reconciliation>.

<sup>26</sup> Quoted in Appendix Two, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2003*, Human Rights and Equal Opportunity Commission, 2004.

<sup>27</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission, 2005, p. 72. See this report for more detail of the COAG trials.

<sup>28</sup> Council of Australian Governments, *Communiqué*, 5 April 2002, <http://www.coag.gov.au/meetings/050402/index.htm#reconciliation>

achieving positive outcomes for Indigenous people, and to help guide where further work is needed.<sup>29</sup>

The Steering Committee developed a framework for reporting on Indigenous disadvantage, which included three Headline Indicators:

- Safe, healthy and supportive family environments with strong communities and cultural identity;
- Positive child development and prevention of violence, crime and self-harm; and
- Improved wealth creation and economic sustainability for individuals, families and communities.<sup>30</sup>

The framework then identifies seven Strategic Areas for Action, with key Strategic Change Indicators for each of these areas. The Steering Committee released its first report, *Overcoming Indigenous Disadvantage: Key Indicators 2003* in November 2003,<sup>31</sup> and its second report in July 2005.<sup>32</sup> The Chair of the Steering Committee stated that the 2003 report:

confirms the pervasiveness of Indigenous disadvantage. It is distressingly apparent that many years of policy effort have not delivered desired outcomes; indeed in some important respects the circumstances of Indigenous people appear to have deteriorated or regressed. Worse than that, outcomes in the strategic areas identified as critical to overcoming disadvantage in the long term remain well short of what is needed.<sup>33</sup>

The reports raised the problem of inadequate data collection and availability to appropriately assess the real nature and experience of Indigenous disadvantage, and to measure change – both positive and negative. The Chair also noted that it was crucial for governments to integrate elements of the reporting framework into their policy development and evaluation processes in order for it to be effective.<sup>34</sup>

## **ATSIC Review**

In November 2002, the then Minister for Indigenous Affairs, Phillip Ruddock, appointed a Review Panel to ‘examine and make recommendations to government on how Aboriginal and Torres Strait

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<sup>29</sup> <http://www.pc.gov.au/gsp/indigenous/index.html>

<sup>30</sup> <http://www.pc.gov.au/gsp/indigenous/consultations/consultations.pdf>

<sup>31</sup> Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2003*, Productivity Commission, Canberra, 2003.

<http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2003/index.html>

<sup>32</sup> <http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2005/index.html>

<sup>33</sup> Gary Banks, 'Indigenous disadvantage: assessing policy impacts', Speech, *Pursuing Opportunity and Prosperity conference*, Melbourne, 13 November 2003, p. 9.

<sup>34</sup> Ibid.

Islander people can in the future be best represented in the process of the development of Commonwealth policies and programs to assist them.’ The Panel was made up of Jackie Huggins, a respected Indigenous leader, Bob Collins, former Labor minister, and John Hannaford, former NSW Liberal minister. In February 2003, Minister Ruddock asked the Panel to give particular attention to the structure of the relationship between the government and ATSIC, including the adequacy of the Minister’s powers and the merits of a possible Ministerial veto in relation to ATSIC decisions.<sup>35</sup>

In April 2003 Minister Ruddock announced the separation of ATSIC’s service delivery functions to a new agency, ATSIIS, as an ‘interim measure’ pending the outcomes of the Review, in response to government concerns about governance structures and accountability within ATSIC. At the time, Minister Ruddock assured Indigenous people that his decision did not entail 'mainstreaming' ATSIC's programmes, nor their transfer to a mainstream government department, as had happened with ATSIC's health portfolio under the previous government.<sup>36</sup> In June 2003, Minister Ruddock then asked the Review Panel to analyse and clearly articulate alternative models for the future involvement of Indigenous people in the development of Commonwealth policies and programs to assist them.

The final report of the Review Panel focused exclusively on ATSIC, and indeed, the whole review became known as the ‘ATSIC Review’. The report found that ATSIC was in urgent need of structural change, but that there was widespread support for the continuation of a national representative body. The Review Panel canvassed a range of options for working towards greater control and participation by Indigenous people at a regional level. The review panel recommended that the ATSIC Board be replaced with an Indigenous national body and a national executive. The panel also recommended that ATSIC and ATSIIS be reunified.<sup>37</sup> The report of the Review Panel stated that mainstream Commonwealth and state and territory government agencies had used the existence of ATSIC

to avoid or minimise their responsibilities to overcome the significant disadvantage of Aboriginal and Torres Strait Islander people. Because public blame for perceived failures has largely focused, fairly or unfairly, on the Aboriginal and Torres Strait Islander Commission, those mainstream agencies, their ministers and governments have avoided responsibility for their own shortcomings.<sup>38</sup>

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<sup>35</sup> ‘Appendix One: Terms of Reference’, *In the Hands of the Regions: A New ATSIC*, Report of the Review of the Aboriginal and Torres Strait Islander Commission, November 2003. p. 83.

<sup>36</sup> The Hon. Philip Ruddock, Minister for Immigration and Multicultural and Indigenous Affairs, ‘Good Governance and Conflicts of Interest in ATSIC’, *Media Release*, 17 April 2003.

<sup>37</sup> ‘Executive Summary’ and ‘Recommendations’, *In the Hands of the Regions: A New ATSIC*, Report of the Review of the Aboriginal and Torres Strait Islander Commission, November 2003. p. 5-13.

<sup>38</sup> *Ibid*, p. 30.

## Abolition of ATSIC

On 30 March 2004, Opposition leader Mark Latham announced that a Labor Government would abolish ATSIC and ATSIIS, stating that ‘ATSIC is no longer capable of addressing endemic problems in Indigenous communities’ and that it ‘has lost the confidence of much of its own constituency and the wider community’.<sup>39</sup> Mr Latham also stated that under Labor, responsibility for program development and delivery would be transferred to regional bodies with support from a new national Indigenous body.<sup>40</sup>

On 31 March 2004 in a radio interview, Prime Minister Howard was asked if the Government too was considering abolishing ATSIC. Mr Howard stated that the government was examining the report by the Review Panel, and that it would ‘not short circuit that process. I want that to go ahead.’<sup>41</sup> He then stated, however, that he had:

All the doubts in the world [about ATSIC]. And I certainly don’t believe that anything is achieved by abolishing ATSIC and replacing it, as apparently the Labor Party seems to be contemplating, with other forms of representative bodies. I don’t think that works. I really don’t. ... you do have to have some special programmes to assist [Indigenous] people. But I think it’s desirable that they be delivered in a mainstream way.<sup>42</sup>

On 5 April 2004, the new Minister for Immigration, Multicultural and Indigenous Affairs, Senator Amanda Vanstone, was quoted as saying that treating Indigenous people in a ‘separate and different’ way had not worked: ‘That’s just a plain fact that stares you in the face when you visit indigenous communities in remote, regional or even metropolitan areas’. She was reported as saying that the states in particular had neglected their responsibilities by ‘stepping back and allowing often second-rate, special indigenous programs’ to fill the gap.<sup>43</sup>

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<sup>39</sup> Quoted in ‘Labor would abolish ATSIC: Latham’, 30 March 2004, AAP, <http://www.eniar.org/news/alp.html>

<sup>40</sup> Ibid.

<sup>41</sup> Transcript of the Prime Minister John Howard, Interview With Mike Carlton, Radio 2UE, 31 March 2004, <http://www.pm.gov.au/news/interviews/Interview766.html>

<sup>42</sup> Ibid.

<sup>43</sup> Quoted in Michelle Grattan, ‘Aboriginal affairs may go full circle’, *The Age*, 5 April 2004, <http://www.theage.com.au/articles/2004/04/04/1081017036352.html>

### 3. NEW ARRANGEMENTS IN INDIGENOUS AFFAIRS

On 15 April 2004, John Howard and Amanda Vanstone announced the Government's intention to abolish ATSIC and introduce new arrangements for the administration of Indigenous affairs from 1 July 2005:

Our goals in relation to indigenous affairs are to improve the outcomes and opportunities and hopes of indigenous people in areas of health, education and employment. We believe very strongly that the experiment in separate representation, elected representation, for indigenous people has been a failure. We will not replace ATSIC with an alternative body. We will appoint a group of distinguished indigenous people to advise the Government on a purely advisory basis in relation to Aboriginal affairs. Programmes will be mainstreamed, but arrangements will be established to ensure that there is a major policy role for the Minister for Indigenous Affairs.<sup>44</sup>

Prime Minister John Howard stated:

I do believe that (ATSIC) has become too preoccupied with what loosely may be called symbolic issues and too little concerned with delivering real outcomes for Indigenous people.<sup>45</sup>

The wide-ranging 'new arrangements' introduced by the Government have been summarised as follows:<sup>46</sup>

- The transfer of Indigenous specific programs formerly managed by ATSIC/ATSIS to mainstream government departments and agencies;
- Improved accountability for mainstream programs and services;
- The establishment of the Ministerial Taskforce on Indigenous Affairs chaired by the Minister for Indigenous Affairs and supported by the Secretaries' Group on Indigenous Affairs;
- The establishment of the Secretaries Group on Indigenous Affairs;
- The establishment of an appointed National Indigenous Council;
- The creation of an Office of Indigenous Policy Co-ordination (OIPC) in the Department of Immigration, Multicultural and Indigenous Affairs to co-ordinate services and programs, taking over the responsibilities of ATSIS, the former Office of Aboriginal and Torres Strait Islander Affairs, and the Indigenous Communities Coordination Taskforce;

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<sup>44</sup> Transcript of the Prime Minister the Hon. John Howard MP, Joint Press Conference with Senator Amanda Vanstone, Parliament House, Canberra, 15 April 2004.

<sup>45</sup> 'Indigenous leaders condemn ATSIC decision', 15 April 2004, ABC Online, [http://www.abc.net.au/message/news/stories/ms\\_news\\_1088120.htm](http://www.abc.net.au/message/news/stories/ms_news_1088120.htm)

<sup>46</sup> These points are drawn from the summaries in Chapter 3 of the Aboriginal and Torres Strait Islander Social Justice Commissioner's Social Justice Report 2004, pp. 78-80 and in Angela Pratt and Scott Bennett, 'The end of ATSIC and the future administration of Indigenous affairs', *Current Issues Brief* No. 4 2005-05, Parliamentary Library Information and Research Services, p. 12.

- The creation of regional Indigenous Co-ordination Centres (ICCs);
- Movement to a single budget submission for Indigenous affairs;
- The negotiation of Regional Partnership Agreements and Shared Responsibility Agreements with Indigenous peoples at a regional and community level;
- A focus on implementing the commitments of the Council of Australian Governments (COAG);
- An ongoing commitment to reconciliation, with \$15 million over four years contributed to Reconciliation Australia.

The Government made a commitment that while ATSIC resources for certain programs would be transferred to mainstream government departments, they would remain quarantined for Indigenous programs, including CDEP; municipal services; the housing program; smaller programs associated with community participation, capacity development and return of remains; funding for arts centres, the sports program and the broadcasting program.<sup>47</sup>

#### 4. Mainstreaming of Indigenous programs and services

In launching the Australian Government's new policy approach in Indigenous affairs, Dr Shergold, the Secretary of the Department of the Prime Minister and Cabinet, stated:

I have seen some reports in the media suggesting that ATSIC's demise represents a return to the past. Nothing could be further from the truth. No new bureaucratic edifice is to be built to administer Aboriginal affairs separate from the responsibility of line agencies. 'Mainstreaming', as it is now envisaged, may involve a step backwards – but it equally represents a bold step forward. It is the antithesis of the old departmentalism. It is a different approach, already piloted in a number of trial sites. Selected by the Council of Australian Governments (COAG), eight communities have revealed a glimpse of what can be achieved through collegiate leadership, collaborative government and community partnerships. ...

The new whole-of-government mainstreaming will be marked by five characteristics. First, **collaboration**. All the key agencies of the Australian government will be required to work together in a coordinated manner to deliver the Commonwealth's \$2.7 billion commitment to indigenous specific funding. It's a lot of money. It deserves to be far better used. ...

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<sup>47</sup> Wayne Gibbons, *Committee Hansard*, Canberra, 29 June 2004, pp. 28-29, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 77.

Second, the new mainstreaming will focus on **regional need**. Initially the ATSIC Regional Councils will be consulted but, over time, the intention is to work with regional networks of elected and representative indigenous organisations in planning the delivery of government support to community endeavour. ...

Third, the watchword will be **flexibility**. Programme guidelines can no longer be treated as rigid rules that serve to constrain administrative innovation. Departmental allocations will be able to be moved between agencies, and between programmes, in pursuit of whole-of-government objectives. ...

Fourth, the approach will emphasise **accountability**. There will be annual reporting on programmes against a range of socio-economic indicators designed to test the effectiveness with which practical reconciliation is being delivered. The performance of relevant departmental secretaries (on which the Prime Minister decides the allocation of performance pay) will be assessed, in part, by their success in oversighting a whole-of-government response to the disadvantage faced by Aboriginal Australians and Torres Strait Islanders.

This personal responsibility reflects the fifth quality of mainstreaming: that is, the importance of joint **leadership**. Secretaries have already engaged, individually and collectively, in oversighting the COAG trial sites. Now, at a national level, they will be accountable for serving government – and delivery to communities – in a whole-of-government manner. It will be a true test of collegiality.<sup>48</sup>

Some Indigenous and non-Indigenous people with a background in the administration of Indigenous affairs supported the Government's approach, for varying reasons. Former ATSIC Regional Councillor Stephen Hagan stated:

I believe we should embrace the concept of mainstreaming Indigenous affairs (a re-direction of the \$1.4 billion annual budget of ATSIC) by exerting pressure on the bureaucrats charged with administering the new windfall to deliver to and for our people.

What have we got to lose, as they couldn't possibly be any worse than ATSIC in delivering services to Indigenous Australians?<sup>49</sup>

Former Minister for Aboriginal Affairs Fred Chaney was quoted as saying he 'personally thinks there is a lot to be said for mainstreaming, in part because it stops departments and bureaucrats escaping responsibility for Indigenous affairs.'<sup>50</sup>

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<sup>48</sup> Peter Shergold, Department of the Prime Minister and Cabinet Management Advisory Committee, speech to launch 'Connecting Government: Whole-of-Government Responses to Australia's Priority Challenges', *Report No. 4*, 20 April 2004, p. 4, [http://www.pmc.gov.au/speeches/shergold/connecting\\_government\\_2004-04-20.cfm](http://www.pmc.gov.au/speeches/shergold/connecting_government_2004-04-20.cfm)

<sup>49</sup> Stephen Hagan, 'ATSIC must be replaced with a new body without 'flexible integrity'', *Online Opinion*, April 28 2004, <http://www.onlineopinion.com.au/view.asp?article=2169>

<sup>50</sup> Quoted in Michelle Grattan, 'PM jumps, ATSIC falls', *The Age*, 18 April 2004, <http://www.theage.com.au/articles/2004/04/17/1082140117433.html?from=storyrhs#>



However, many Indigenous leaders were critical of the proposed changes. Former head of ATSIC, Lowitja O'Donoghue stated that there was 'no guarantee that mainstreaming is going to improve anything'.<sup>51</sup> Noel Pearson was quoted as saying that the announced changes by the Prime Minister was taking Indigenous affairs back to a former era: This is complete folly, ATSIC was started up in 1990, the 20 years prior to that mainstreaming was the way in which services were delivered to Indigenous people and that produced failure.<sup>52</sup> Linda Burney, the first Indigenous woman to be elected to the NSW Parliament, was quoted as saying:

It's one thing to say whether a body is working or not, but to completely disband a representative group of people and then put every program into the Government departments without any self-determination ... at all takes us back an enormous amount of years.<sup>53</sup>

In her Second Reading Speech on the *Aboriginal and Torres Strait Islander Commission Amendment Bill 2004*, Amanda Vanstone stated:

For too long many mainstream agencies were not closely involved in Indigenous issues. Setting up a second rate specialist agency like ATSIC to do their job for them did not work. Unfortunately over time this led to these mainstream agencies becoming unfamiliar with the issues. We have taken the problem head on. We have transferred Indigenous programmes to mainstream agencies and have taken steps to make sure that those agencies will be much more accountable.<sup>54</sup>

The Bill was passed by the House of Representatives on 2 June 2004.

## **5. Senate Select Committee for the Administration of Indigenous Affairs**

On 16 June 2004, the Senate appointed a Select Committee for the Administration of Indigenous Affairs to report into (a) the provisions of the *Aboriginal and Torres Strait Islander Commission Amendment Bill 2004*; (b) the proposed administration of indigenous programs and services by mainstream departments and agencies; and (c) related matters. The Committee received a large number of submissions from a range of Indigenous and non-Indigenous organisations and individuals, and many people appeared before the Committee's public hearings. The transcripts of these hearings, and the Committee's final report, *After ATSIC – Life in the mainstream?*, released in March 2005, contain

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<sup>51</sup> Quoted in Misha Schubert, 'Howard's plan no guarantee', *The Australian*, 16 April 2004, p. 4.

<sup>52</sup> Noel Pearson, quoted in 'Indigenous leaders condemn ATSIC decision', 15 April 2004, ABC Online, [http://www.abc.net.au/message/news/stories/ms\\_news\\_1088120.htm](http://www.abc.net.au/message/news/stories/ms_news_1088120.htm)

<sup>53</sup> Linda Burney, quoted in 'Indigenous leaders condemn ATSIC decision', 15 April 2004, ABC Online, [http://www.abc.net.au/message/news/stories/ms\\_news\\_1088120.htm](http://www.abc.net.au/message/news/stories/ms_news_1088120.htm)

<sup>54</sup> Amanda Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs, Second Reading Speech, *Aboriginal and Torres Strait Islander Commission Amendment Bill 2004*, *Senate Hansard*, 1 December 2004, p. 2.

substantial detail regarding the Government's new policy approach, the roles and view of the various government agencies now responsible for administering Indigenous affairs, and the response and critique by Indigenous organisations and individuals and others working in the field regarding the new arrangements.

In appearing before the Committee to explain the new direction for service delivery and the meaning of mainstreaming, government officials stressed the difference between 'old' and 'new' mainstreaming. The bulk of respondents to the Committee based their comments on an interpretation of mainstreaming based on departments delivering the same undifferentiated services to all consumers, regardless of differences in locality, ethnicity or levels of disadvantage.<sup>55</sup> Dr Peter Shergold described this approach of 'old' mainstreaming of Indigenous affairs as 'an enormous failure',<sup>56</sup> with four main characteristics: 'The first is that you do not have indigenous specific programs. The second is that each department makes its own decisions in a non-coordinated way. The third is that you do not have an Indigenous specific agency. The fourth is that you have national programs that are delivered in the same way no matter where they are delivered.'<sup>57</sup> Dr Shergold distinguished this approach from the current government's changes to the administration of Indigenous affairs, which he described as completely at odds with these characteristics.<sup>58</sup>

Other government departments provided submissions to the Committee that indicated optimism that the new mainstreaming arrangements would improve their capacity to deliver results, through better coordination, more flexible programs, and improved accountability.<sup>59</sup> The Attorney-General's Department submission stated that the shift would 'remove duplication and reduce expenditure on bureaucracy and structures in the management and implementation of government programs and services'.<sup>60</sup> The Department of Employment and Workplace Relations (DEWR) stated in their submission that the Department sees 'much advantage in the new formal collaboration mechanisms being put into place, including ICCs, and believes they will have an important role to play in promoting

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<sup>55</sup> Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 82.

<sup>56</sup> Peter Shergold, *Proof Committee Hansard*, Canberra, 8 February 2005, p. 2, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 82.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<sup>59</sup> Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 86.

<sup>60</sup> DIMIA, Submission 128, p. 24, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 86.

strong and sustainable co-ordination and collaboration arrangements between agencies' through fostering 'flexible and innovative approaches to meet community needs'.<sup>61</sup>

### **Criticisms of the new arrangements**

However the government's 'new mainstreaming' arrangements and their implementation were widely criticised by many submissions to the Senate Select Committee. The ATSIC Board submission stated:

The mainstream [comprising the dominant ideas and practices of a society which are accepted as the norm, even though [they] may discriminate against a section of that society] has generally failed Indigenous people. Decisionmaking institutions and systems – government agencies at all levels – have not been sufficiently sensitive to Indigenous needs, concerns and experiences ... Indigenous needs, concerns and experiences differ from the mainstream.<sup>62</sup>

Whether the changes were indeed 'new' was widely debated. For example, Martin Dore from the North Queensland Land Council stated that 'splitting up ATSIC and sending the different matters that ATSIC used to handle into the mainstream... is very detrimental to the Indigenous population. ... We see the splitting up and mainstreaming of the various different programs as a huge step backwards.'<sup>63</sup> Professor Geoffrey Scott identified that the new arrangements not only abolished ATSIC as the national elected representative body of Indigenous people, but also 'goes through 11 or 12 bits of other legislation and removes the voice of Indigenous people from any of those forums. Nothing has been contemplated to take its place'.<sup>64</sup> Norman Fry, of the Northern Land Council pointed out that:

Mainstream departments and agencies are inexperienced in dealing with Aboriginal people and have only limited understanding of aspects of Aboriginal history and culture. Their staff are unfamiliar with the dynamics of Aboriginal communities and rarely have much local knowledge. ... The plethora of Aboriginal agencies and organisations ... have all come about because of the failure of mainstream services for the very reasons highlighted and brought out by the Commonwealth Grants Commission's own report. It is a historical, systemic problem in mainstream governance models in Australia.<sup>65</sup>

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<sup>61</sup> Ibid, p. 46.

<sup>62</sup> ATSIC Board of Commissioners, Submission 202, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 106.

<sup>63</sup> Martin Dore, *Committee Hansard*, Cairns, 27 August 2004, p. 21, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 77.

<sup>64</sup> Professor Geoffrey Scott, *Committee Hansard*, Sydney, 2 February 2005, p.102, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005,

<sup>65</sup> Norman Fry, *Committee Hansard*, Darwin, 24 August 2004, p. 71, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 107.

The submission from Reconciliation Australia also cautioned about the assumption that shifting responsibility to mainstream government departments was going to more effectively address

#### Indigenous disadvantage:

Just as it is dangerous to make assumptions about lack of capacity within Indigenous communities, it is potentially even more dangerous to assume capacity within government agencies to deliver this level of change. It appears that government policy is well ahead of government agencies' capacity to manage implementation or deal with its consequences. ...

The natural tendency of mainstream agencies is to cater for the mainstream [and that] without strong and consistent political and administrative leadership, agencies generally fail indigenous communities;

- Mainstream service delivery which is not delivered in culturally appropriate ways is unlikely to succeed; and
- Indigenous organisations which are culturally appropriate and have authority in the community are essential to obtaining engagement of those communities.<sup>66</sup>

At the Darwin hearing, Commissioner Hill provided an example of the disconnectedness and lack of efficiency which is part of the mainstreaming process:

My biggest concern at the moment ... is the lack of understanding, especially from Canberra. We have got a couple of officers, I understand, who have been transferred to AG's, and one officer at Nhulunbuy has been transferred to Heritage and the Environment. Canberra did not know that there was an airstrip at Nhulunbuy – to my surprise. Then again, I am not surprised at all.<sup>67</sup>

The Committee also heard evidence of early lack of coordination and distribution of information about the implementation of the new arrangements to Indigenous communities. The Manager of CDEP for the Laramba community in the Northern Territory told that Committee that:

...[T]he way the government has gone about dismantling ATSI to begin with has left communities not knowing where they are. It has left the management of the communities not knowing where they are. We have had some correspondence from DEWR regarding CDEP and how that is going to be run, but there has been very little communication from any of the other departments taking up the other areas that affect the community – such as sport and rec [and] community management and all these other issues. I think not informing the community is not the correct way to go about business. It is their community.<sup>68</sup>

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<sup>66</sup> Reconciliation Australia, Submission 225, p. 5, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 107.

<sup>67</sup> Commissioner Hill, *Committee Hansard*, Darwin, 24 August 2005, p. 11, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 109.

<sup>68</sup> Mr Monaghan, *Proof Committee Hansard*, Alice Springs, 20 July 2004, p. 2, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 90.

Representatives from the Kamilaroi Regional Council reported:

What we have found, though, since the funding has left ATSIC and gone to DEWR is that our field officers have not been able to come out and visit. We have found in the Kamilaroi region that what used to be the ATSIC office in Tamworth - it is now the ICC - has lost its delegate and does not have the ability to make decisions with respect to variations in funding that have been applied for. Now we are talking to someone in Orange or Sydney – the state delegate. We are not confident that that person is aware of what the needs of the people here in Moree are.<sup>69</sup>

The Committee heard corroborating evidence from a Commonwealth agency that indicated implementing the new arrangements was going to be a challenge:

Until 1 July 2004, DCITA was a relatively small Canberra-based policy department without a regional presence. While DCITA managed some important programmes, the primary focus was the provision of advice to ministers ... As a result of the new administrative arrangements, DCITA has now assumed responsibility for programme budgets amounting to approximately \$42 million per annum and is integrating approximately 100 new staff into the Department. Most of these staff will be located in regional areas, and, consistent with the whole-of-government approach, will work in newly-established Indigenous Coordination Centres. This will be a challenge, particularly given the lack of an existing departmental state or regional network and the relatively junior profile of the staff mapped to DCITA.<sup>70</sup>

NACCHO highlighted the treatment that many Indigenous people receive under already mainstreamed sectors:

A key example is the failure of accountability for the provision of hearing services to Indigenous Australians under the Commonwealth Hearing Services Program. A recent review found that only 100 Indigenous Australians were accessing the \$132 million/annum Voucher scheme despite having higher rates of hearing loss than other Australians. Despite this report, concerns raised through Senate Estimates and a recent national Hearing Seminar, no reforms to the Voucher scheme have been announced.<sup>71</sup>

The significant problem of a loss of Indigenous personnel and expertise in the public sector was raised by many who appeared before the Committee. Professor Mick Dodson stated that there are ‘certain things happening as a result of these new arrangements that I think are potentially disastrous – for example, the massive loss of Indigenous corporate knowledge from the Australian Public Service. The

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<sup>69</sup> Matthew Hannan, *Committee Hansard*, Moree, 1 February 2005, pp. 72-73, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 97.

<sup>70</sup> DIMIA Submission 128A, p. 28, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 91.

<sup>71</sup> NACCHO, Submission 179, p. 14, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 90.

reasons escape me why any organisation would not want to keep that knowledge.<sup>72</sup> Mr Hunter from the Yilli Rreung Regional Council stated in his evidence that poor implementation of the new arrangements has had a negative effect for Indigenous employees transferred to mainstream government departments:

People have been asked to question their values. They have a history of considering Indigenous views and issues involved in the delivery of service. They have been told that they need to rethink their values and that they need to fit into [ the department's] tracks ... [O]r leave. ...

ATSIS-ATSIC was a major employer of Indigenous people across the country. That corporate value, that corporate knowledge and all that have certainly been filtered onto a lot of other agencies and it is of concern. I guess it is all about the capacity of the agency to retain those Indigenous people. ... it could have been done a hell of a lot better than it has been.<sup>73</sup>

The federal Public Service Commissioner in their *State of the Service* report confirmed that there had been a 'decrease in Indigenous employment in both absolute and proportional terms in 2003-04', and identified the need for targeted recruitment and retention strategies for Indigenous employees.<sup>74</sup> The 2004-05 report revealed that numbers of Indigenous people employed in the Australian Public Service had declined further, with 52 Indigenous staff retrenched after the abolition of ATSIC and ATSIC.<sup>75</sup>

The Hon. John Hannaford of the ATSIC Review Panel told the Committee that:

The concept of centralisation of control, centralisation of direction – whilst it may be bureaucratically efficient and effective and provide appropriate levels of publicly accountable governance – does not necessarily meet the aspirations of the people that we are meant to serve, certainly is not going to provide the levels of respect ... and is not going to result in long-term effective change. ...

We [the ATSIC Review Panel] felt that by sustaining the approach of a centrally directed delivery of services, no matter how well-meaning it may be in the initial phase, it is only as good as the will of the minister, the will of the government or, more importantly, the will of the bureaucrats at the time who are administering discretionary programs.<sup>76</sup>

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<sup>72</sup> Professor Mick Dodson, *Proof Committee Hansard*, Canberra, 3 February 2005, p. 36, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 104.

<sup>73</sup> Mr Hunter, *Committee Hansard*, Darwin, 24 August 2004, pp. 59-60, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 105.

<sup>74</sup> Australian Public Service Commission, *State of the Service Report 2003-2004*, <http://www.apsc.gov.au/stateoftheservice/0304/>

<sup>75</sup> Australian Public Service Commission, *State of the Service Report 2004-2005*, <http://www.apsc.gov.au/stateoftheservice/0405/>

<sup>76</sup> Hon John Hannaford, *Committee Hansard*, Canberra, 18 February 2005, p. 23, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 109.

## **The Committee's findings**

The Committee's final report found that notwithstanding the assertions by government departments, the Committee had not been presented with any actual evidence to show that mainstreaming would bring about improvements in service delivery. The Committee noted that it was mindful of the Government's distinction between the traditional concept of mainstreaming and what it claims are fundamental differences in the 'new' system, however stated that the negative experiences many witnesses had with traditional mainstreaming, combined with the lack of experience with the new system, left the Committee with little persuasive evidence in support of the new arrangements.<sup>77</sup> The Committee concluded that:

the Government has furthered its assimilationist agenda by dissolving the administrative structures that provided specialist, specific services to Indigenous people and their communities. Already as a result, the number of Indigenous people employed by the Commonwealth to provide these services has fallen markedly. Indigenous people will henceforth find their interactions with government more difficult and less informed by shared cultural understandings. In health and education, where Indigenous policy and service delivery have been part of mainstream provision for many years, and despite the best efforts of many able public servants and policy makers, Aboriginal and Torres Strait Islander people's circumstances continue to lag well behind those of other Australians.

Meanwhile, many programs until now administered by ATSIC and focussed clearly on the needs of Indigenous people have brought appreciable gains – the Community Development Employment Projects (CDEP) program and the financial agency Indigenous Business Australia among them.

Under the new arrangements, these and other programs in Indigenous housing, legal aid, the arts and other areas will be dissolved into large Commonwealth departments whose primary objectives are much broader. Though the programs will be retained in name, inevitably they will fall under the cultural influence and values of those mainstream organisations. Their specific Indigenous focus could well be lost. At the same time, it will become more difficult for Indigenous people themselves, and also for the Parliament, to monitor and evaluate the performance of the government in providing for the needs of Indigenous citizens.<sup>78</sup>

The Committee made a series of recommendations, including the following:

- That the Government give active support and funding to the formation of a national Indigenous elected representative body, and provide it with ongoing funding;

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<sup>77</sup> quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 89.

<sup>78</sup> Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, pp. xvi-xvii.

- That the Government immediately establishes a mechanism to thoroughly and impartially assess the new mainstreaming arrangements as they are implemented, including those already in place;
- That a Senate Standing Committee on Indigenous Affairs be established to examine:
  - The implementation of the mainstreaming policy;
  - The coordination of Commonwealth, state and territory agencies;
  - The formative of representative arrangements; and
  - The equity of Shared Responsibility Agreements.<sup>79</sup>

To date, these recommendations have not been taken up by the Government.

## **6. COAG National Framework of Principles for Government Service Delivery to Indigenous Australians**

In June 2004, COAG endorsed a National Framework of Principles for Government Service Delivery to Indigenous Australians.<sup>80</sup> The principles are:

### **Sharing responsibility**

- Committing to cooperative approaches on policy and service delivery between agencies, at all levels of government and maintaining and strengthening government effort to address indigenous disadvantage.
- Building partnerships with indigenous communities and organisations based on shared responsibilities and mutual obligations.
- Committing to indigenous participation at all levels and a willingness to engage with representatives, adopting flexible approaches and providing adequate resources to support capacity at the local and regional levels.
- Committing to cooperation between jurisdictions on native title, consistent with Commonwealth native title legislation.

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<sup>79</sup> Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, pp. vii-ix.

<sup>80</sup> Council of Australian Governments, *Communiqué*, 25 June 2004, <http://www.coag.gov.au/meetings/250604/#indigenous>



## **Harnessing the mainstream**

- Ensuring that indigenous-specific and mainstream programmes and services are complementary.
- Lifting the performance of programs and services by:
  - reducing bureaucratic red tape;
  - increasing flexibility of funding (mainstream and indigenous-specific) wherever practicable;
  - demonstrating improved access for indigenous people;
  - maintaining a focus on regional areas and local communities and outcomes; and identifying and working together on priority issues.
- Supporting indigenous communities to harness the engagement of corporate, non-government and philanthropic sectors.

## **Streamlining service delivery**

- Delivering services and programmes that are appropriate, coordinated, flexible and avoid duplication:
  - including fostering opportunities for indigenous delivered services.
- Addressing jurisdictional overlap and rationalising government interaction with indigenous communities:
  - negotiating bi-lateral agreements that provide for one level of government having primary responsibility for particular service delivery, or where jurisdictions continue to have overlapping responsibilities, that services would be delivered in accordance with an agreed coherent approach.
- Maximising the effectiveness of action at the local and regional level through whole-of-government(s) responses.
- Recognising the need for services to take account of local circumstances and be informed by appropriate consultations and negotiations with local representatives.
- Establishing transparency and accountability.
- Strengthening the accountability of governments for the effectiveness of their programmes and services through regular performance review, evaluation and reporting.
- Ensuring the accountability of organisations for the government funds that they administer on behalf of indigenous people.

- Tasking the Productivity Commission to continue to measure the effect of the COAG commitment through the jointly-agreed set of indicators.

### **Developing a learning framework**

- Sharing information and experience about what is working and what is not.
- Striving for best practice in the delivery of services to indigenous people, families and communities.

### **Focusing on priority areas**

- Tackling agreed priority issues, including those identified in the Overcoming Indigenous Disadvantage Report:
  - early childhood development and growth; early school engagement and performance, positive childhood and transition to adulthood; substance use and misuse; functional and resilient families and communities; effective environmental health systems; and, economic participation and development.<sup>81</sup>

COAG proposed that these principles provide a common framework between governments on the best means of engaging with Indigenous people, and that governments consult with Indigenous people in their efforts to achieve this.<sup>82</sup>

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<sup>81</sup> [http://www.coag.gov.au/meetings/250604/attachments\\_b.pdf](http://www.coag.gov.au/meetings/250604/attachments_b.pdf)

<sup>82</sup> Council of Australian Governments, *Communiqué*, 25 June 2004, <http://www.coag.gov.au/meetings/250604/#indigenous>

## Progress of the new arrangements

### Shared Responsibility Agreements<sup>83</sup>

Shared Responsibility Agreements (SRAs) have been promoted as a key policy strategy of the new arrangements, drawing on the principle underpinning the COAG trials of ‘communities negotiating as equal partners with government’. In signing up to SRAs, governments contribute resources for infrastructure and services in exchange for commitments to behavioural change and other actions by Indigenous communities. The government states that SRAs are underpinned by the notion of ‘mutual obligation’ between communities and governments to address Indigenous disadvantage, and as reflecting community priorities and solutions.<sup>84</sup> Funding allocated by the Australian Government under SRAs is described as ‘discretionary’ Indigenous-specific funding, using existing resources that include those previously administered by ATSIC.<sup>85</sup> The negotiation of SRAs with Indigenous communities is lead by different Federal Government departments and co-ordinated through the regional Indigenous Co-ordination Centres that replaced the ATSIC regional offices. Relevant State and Territory Government agencies can also become parties to SRAs.

The Australian Government’s website describes SRAs in the following terms:

SRAs are agreements that spell out what all partners—communities, governments, and others—will contribute to help bring about good long-term changes.

SRAs start with ideas from the community on what changes you want to make and how they will be done. They will build towards the kind of future your community wants for your children and grandchildren.

Each SRA will be different, because each community is different.

SRAs will develop over time. As this happens, what government funds are spent on may also change so that communities get the results they need.

Government programs will also become more flexible so they can respond better to community needs and priorities.

SRAs only cover the services available to Indigenous people through special Indigenous programs. SRAs will not affect benefits or services available to all Australians—e.g. benefits administered by Centrelink.<sup>86</sup>

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<sup>83</sup> For more information and analysis on SRAs, see Ngiya Briefing Papers 1 and 7 at <http://www.jumbunna.uts.edu.au/ngiya/papers.html>

<sup>84</sup> <http://www.indigenous.gov.au/sra.html>

<sup>85</sup> Ibid.

<sup>86</sup> [http://www.indigenous.gov.au/sra\\_info.html](http://www.indigenous.gov.au/sra_info.html)

In late 2004, a draft SRA between the remote Aboriginal community of Mulan, Western Australia, and the Federal and Western Australian Governments was released by the Opposition. The draft SRA stated that in return for the community committing to certain hygiene measures to address health problems such as washing kids' faces and emptying rubbish bins, the Federal Government would contribute funds for petrol bowsers in the community. As part of the agreement, the WA Government undertook to monitor and review the adequacy of health services in the area, where trachoma rates have been described as the worst in the world. The draft SRA, described by the Government as 'an example of how we want to work in all the communities',<sup>87</sup> provoked extensive debate amongst Indigenous and non-Indigenous leaders and commentators.<sup>88</sup> While various Indigenous leaders criticised the Mulan SRA as a form of blackmail,<sup>89</sup> as racially discriminatory,<sup>90</sup> and as making an illogical connection between children's hygiene and the more convenient provision of petrol,<sup>91</sup> Minister Vanstone responded: 'A community gets what it wants – a petrol bowser ... [a]nd the kids get better health outcomes. Who could complain about that?'<sup>92</sup> The Mulan agreement was described by non-Indigenous commentators as the 'first example of Howard's push to work on improving living standards of Aborigines, and pushing the debate away from treaties, reconciliation and land rights'.<sup>93</sup> The Prime Minister stated:

it is not just a question of money, because a lot more money has been put into Aboriginal health. It is a question of culture. It is a question of practice. It is a question of attitude. It is a question of community responsibility.<sup>94</sup>

The administrator of Mulan's Aboriginal Corporation was quoted extensively in media reports as saying that the community itself came up with the idea, and approached the government.<sup>95</sup> However, there were other factors in this deal that were less reported. The administrator also said that earlier

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<sup>87</sup> Quoted on 'Mulan deal a return to native welfare days: Dodson', ABC Radio PM, 9 December 2004, <http://www.abc.net.au/pm/content/2004/s1261745.htm>

<sup>88</sup> For in-depth analysis of the Mulan agreement, see Ngiya Briefing Paper 1, 'Shared Responsibility Agreements', [http://www.jumbunna.uts.edu.au/research/shared\\_responsibility.pdf](http://www.jumbunna.uts.edu.au/research/shared_responsibility.pdf) and Ruth McCausland, 'Petrol bowsers for washing kids faces': a 'new conversation' in Indigenous policy', [Australian Social Policy Conference](http://www.jumbunna.uts.edu.au/research/pdf/social_policy_conf_21_07_05.pdf), 21 July 2005, [http://www.jumbunna.uts.edu.au/research/pdf/social\\_policy\\_conf\\_21\\_07\\_05.pdf](http://www.jumbunna.uts.edu.au/research/pdf/social_policy_conf_21_07_05.pdf)

<sup>89</sup> Aden Ridgeway quoted in Mark Coultan and Mark Metherell, 'A New Deal for Indigenous Australia', *The Sydney Morning Herald*, 11 December 2004, p. 25.

<sup>90</sup> Mick Dodson quoted in Patricia Karvelas and Amanda Banks, 'We are just saving our kids', *The Australian*, 10 December 2004, p. 1.

<sup>91</sup> Pat Dodson and Noel Pearson, 'The Dangers of Mutual Obligation', *The Age*, 15 December 2004, p. 17.

<sup>92</sup> Ibid.

<sup>93</sup> Mark Coultan and Mark Metherell, 'A new deal for indigenous Australia', *The Sydney Morning Herald*, December 11 2004.

<sup>94</sup> 'Howard 'unhappy' with Aboriginal health', *The Age*, December 10 2004, <http://www.theage.com.au/news/National/Howard-unhappy-with-Aboriginal-health/2004/12/10/1102625508797.html>

<sup>95</sup> Quoted on 'Mulan deal a return to native welfare days: Dodson', ABC Radio PM, 9 December 2004, <http://www.abc.net.au/pm/content/2004/s1261745.htm>

requests for funding for a petrol bowser had come to nothing,<sup>96</sup> until he received advice from a senior Indigenous affairs bureaucrat that entering into an SRA committing to particular measures might lead to such funding being more forthcoming.<sup>97</sup>

Eighteen months before the SRA negotiations, the school in Mulan had introduced a twice-daily face-washing program, which had led to the incidence of trachoma already dropping to a seven-year low of 16 per cent as a result of the community-initiated measures.<sup>98</sup> However, the pre-program rates of trachoma were quoted by politicians and in the media as justification for the SRA. In April 2005, Brendan Nelson, Minister for Education, Science and Training, who has signed a number of SRAs with Aboriginal communities, stated in reference to Mulan that:

Six months after the government enduring accusations of paternalism, the results are mind blowing. Trachoma which afflicted 70% of children is now undetectable. Fred Hollows would be impressed.<sup>99</sup>

Up until late May 2005, very little information about the progress of SRAs was available publicly. Minister Vanstone refused to name communities involved in SRA negotiations, or release details of any SRAs.<sup>100</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma said that he wanted to ensure that SRAs were fair, but the Government had refused to give him any details.<sup>101</sup> 'It makes it very difficult to monitor them', he was quoted as saying. 'Apparently 30 agreements have been signed or are about to be signed. I understand they're not going to be made public until the minister announces them.'<sup>102</sup> Australians for Native Title and Reconciliation National Director, David Cooper, stated that:

At this rate, it's going to take 20 years to sign SRAs with all the communities. They are a massive con. They are not proper evidence-based agreements. ...

[W]ork that is essentially ongoing is being rebadged as shared responsibility. It implies to people from the outside that the Government has to step in a force these people to do basic things.<sup>103</sup>

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<sup>96</sup> Steve Pennells, 'Rules unfair, say proud Mulan people', *The Age*, 10 December 2004, <http://www.theage.com.au/news/National/Rules-unfair-say-proud-Mulan-people/2004/12/09/1102182430767.html>

<sup>97</sup> Amanda Banks and Paige Taylor, 'Routine routs eye disease', *The Australian*, 10 December 2004, [http://www.theaustralian.news.com.au/common/story\\_page/0,5744,11645030%255E2702,00.html](http://www.theaustralian.news.com.au/common/story_page/0,5744,11645030%255E2702,00.html)

<sup>98</sup> Amanda Banks and Paige Taylor, 'Routine routs eye disease', *The Australian*, 10 December 2004, [http://www.theaustralian.news.com.au/common/story\\_page/0,5744,11645030%255E2702,00.html](http://www.theaustralian.news.com.au/common/story_page/0,5744,11645030%255E2702,00.html)

<sup>99</sup> Brendan Nelson, 'Agreements proving effective', *North Shore Times*, 13 April 2005, <http://www.brendannelson.com.au/news/default.asp?action=article&ID=325>

<sup>100</sup> Kathryn Shine, 'Black responsibility deals 'no miracle'', *The Australian*, 16 May 2005, [http://www.theaustralian.news.com.au/common/story\\_page/0,5744,15301585%5E2702,00.html](http://www.theaustralian.news.com.au/common/story_page/0,5744,15301585%5E2702,00.html)

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

On 27 May 2005, to mark the start of Reconciliation Week, Minister Vanstone publicly released details of the ‘first’ Shared Responsibility Agreements - 52 SRAs involving 43 Indigenous communities around the country.<sup>104</sup> Minister Vanstone stated that the Government had set a target of 50 SRAs by the end of the financial year, and with a month to go had already exceeded that ‘because communities have been quick to embrace the change’.<sup>105</sup> The Minister stated that the agreements contained a financial commitment of \$9.5 million by the Federal Government, including initiatives addressing nutrition, community safety, business support, skills development and a range of other community needs. In return, communities were described as making commitments such as improving school attendance, controlling substance misuse and being involved in youth recreation activities.<sup>106</sup>

On 28 May 2005, the Northern Territory’s Aboriginal Medical Services Alliance executive officer, Pat Anderson, publicly criticised SRAs as violating basic human rights, pointing out that white Australians do not have to send their children to school or prove they are feeding them well to access facilities such as petrol bowsers and pools.<sup>107</sup> She stated: ‘I don’t think what they’ve come up with so far is really going to work. In fact, I think it’s a recipe for chaos.’<sup>108</sup> Senator Aden Ridgeway stated that: ‘Most of the SRAs mentioned in the Government’s information kit are in communities that have already done extensive work as part of the Council of Australian Government process, yet the Government conveniently rebadges this work as their own and calls it an instant policy success.’<sup>109</sup>

On the same day, Minister Vanstone was quoted as calling the SRAs the start of a ‘quiet revolution’, and describing the agreements as ‘representative of practical reconciliation’.<sup>110</sup> A couple of days later at the National Reconciliation Planning Workshop, she addressed an audience of senior Indigenous leaders and other Indigenous and non-Indigenous Australians with experience in Indigenous affairs:

We are at a point in history when Australia is embarking on a ‘new conversation’ in Indigenous Affairs.

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<sup>104</sup> <http://www.atsia.gov.au/media/media05/v0514.htm> The first Shared Responsibility Agreements were in fact those negotiated in the COAG Trial sites.

<sup>105</sup> *ibid.*

<sup>106</sup> *ibid.*

<sup>107</sup> [http://www.abc.com.au/message/news/stories/ms\\_news\\_1379233.htm](http://www.abc.com.au/message/news/stories/ms_news_1379233.htm)

<sup>108</sup> *ibid.*

<sup>109</sup> *ibid.*

<sup>110</sup> Stephanie Peatling, ‘Let’s make a deal: Vanstone lauds quiet revolution’, *The Sydney Morning Herald*, 28 May 2005, <http://www.smh.com.au/news/National/Lets-make-a-deal-Vanstone-lauds-quiet-revolution/2005/05/27/1117129901109.html>

It is a conversation based on an almost universal belief that the approach of the past 30 or more years has not delivered the results that we would have hoped for. ...

There has been a shift from the theoretical and ideological to the real and the practical.

And this new conversation must be more than just words – it cannot be an end in itself. It must make a real contribution to better outcomes – that is the objective.

Aboriginal and Torres Strait Islander people, their families and communities must be at the centre of the new conversation. They must be given a voice. The conversation must be with them, not about them.

And, having been asked to contemplate their future, we must listen and follow through with actions and outcomes.

For many this will be the first time they have been asked to say what they in the community want for their future. The first time to tell us what they think will work. And the first time that they have had a hand in shaping their own immediate and longer term future. ...

...In my view, it is paternalistic in the extreme to suggest that local Aboriginal and Torres Strait Islander people are not able to present their views to governments directly. It suggests that they have no capacity to make that contribution.

Our shared responsibility approach is based on local people identifying the problem and defining their own solutions. This is a simple but profound notion which is being embraced by communities as they enthusiastically negotiate Shared Responsibility Agreements with the Government.

Our first 52 agreements are the beginning of a new way of doing business in Australia.<sup>111</sup>

On 21 June 2005, Minister Vanstone announced a further financial commitment of \$3,348,000<sup>112</sup> to fund 24 new SRAs.<sup>113</sup> She stated that the funding came from grant and program funding previously administered by ATSIC and ATSI, ‘[b]ut unlike past practice, there is much greater emphasis on quality services, value for money and accountability in this year’s grants’.<sup>114</sup> The new SRAs were described as including ‘activities for young people, economic development, improving water supplies, agricultural projects and cultural activities’. The Minister stated that the latest round of SRAs ‘confirms

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<sup>111</sup> [http://www.atsia.gov.au/media/speeches/31\\_05\\_2005\\_reconciliation.htm](http://www.atsia.gov.au/media/speeches/31_05_2005_reconciliation.htm)

<sup>112</sup> [http://www.indigenous.gov.au/sra/kit/table\\_june.pdf](http://www.indigenous.gov.au/sra/kit/table_june.pdf)

<sup>113</sup> <http://www.atsia.gov.au/media/media05/v0516.htm>

<sup>114</sup> *ibid.*

that Indigenous communities are responding to the Government's new approach of working directly with individual communities.<sup>115</sup>

In early November, OIPC officials told the Senate Legal and Constitutional Committee that although the Mulan community had been holding up its commitments in the SRA, the petrol bowsers were yet to be installed.<sup>116</sup>

On 30 November 2005, Minister Vanstone announced 44 new SRAs and a further commitment of \$14 million.<sup>117</sup> Included in these SRAS was funding for 'unsniffable petrol, kidney treatment centres and home air conditioning', with communities in turn making commitments to 'put a stop to vandalism, pick up rubbish in their backyards, brush their teeth and look after local animals'.<sup>118</sup> The Minister was quoted as saying: 'We've really come a long way since we started doing these... What was paternalistic was us saying 'we know what you need, trust us, we're from Canberra'. That was the essence of paternalism, that's where we went wrong. The difference is, we're now treating the communities as people who are capable of telling the Government what they want to do with their community.'<sup>119</sup>

### **Detail of SRAs**

Copies of the actual 121 SRAs signed between governments and Indigenous communities to date have not been made publicly available. The Australian Government's Indigenous Portal containing press releases from the Minister about SRAs also includes a fact sheet, a map of where SRAs have been signed, general figures of government funds committed and the focus of the agreement, and A4 summaries of SRAs signed.<sup>120</sup> However the website does not include the relevant detail of the actual agreements, including the specific objectives, performance indicators, benchmarks, any existing baseline data or community identified priorities, or dispute resolution, monitoring and evaluation mechanisms and timeframes.

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<sup>115</sup> *ibid.*

<sup>116</sup> 'Mutual' MIA in govt's MO', National Indigenous Times, 10 November 2005, p. 8.

<sup>117</sup> <http://www.atsia.gov.au/media/media05/v0543.htm>

<sup>118</sup> Nicolette Burke, 'Aboriginal benefits for shared responsibility', *The Advertiser*,

1 December 2005, <http://www.theadvertiser.news.com.au/printpage/0.5942.17419013.00.html>

<sup>119</sup> *ibid.*

<sup>120</sup> <http://www.indigenous.gov.au/sra.html>



The Government has not explicitly stated what legal and contractual status of SRAs is. The online database of the Agreements, Treaties and Negotiated Settlements (ATNS) project, based at the University of Melbourne, describes SRAs as follows:

The initial SRAs signed in COAG trials were set out in two parts. The first establishes the parties to the agreement as well as an overview of the agreement, its objectives, local outcomes and priorities, arrangements for performance measurement and evaluation, for access to data, for dispute settlement, review of progress and duration and variation of the agreement. In order to ensure flexibility, communities and government may agree in writing to change the contents of the agreement.

The second part usually consists of a number of attachments which describe specific arrangements with respect to agreed strategies and projects. These are set out in a table which details the nature of each project, its rationale, the parties to it and the responsibilities of each party with respect to the project. It also sets out the mutually agreed performance information that is to be provided including benchmarks and baseline data.

The SRAs signed after July 2004 have involved only single-issue agreements, designed to be meaningful to individual communities.<sup>121</sup>

The second group of SRAs that were initiated under the Government's new arrangements in Indigenous policy are significantly different from those negotiated as part of the COAG trials. In particular, the SRAs in the COAG trial sites were negotiated between the Australian Government, the relevant state or territory government, and the local ATSIC Regional Council. Those SRAs did not have specific small amounts of money attached to them, and tended to be part of the broader planning processes for that region, identifying a range of strategic areas for action, and focused on learning lessons to apply to future policy and programs for Indigenous communities. The more recent rounds of SRAs do not seem to share those characteristics.

### **Transparency, accountability, consistency**

The SRAs summarised on the Government's website vary significantly in terms of focus, commitments and funding. There have been no SRAs signed in the ACT, one in Tasmania and one in Victoria signed previously under the COAG trials. There have been 30 signed in Western Australia, 27 in NSW, 24 in the Northern Territory, 11 in Queensland and seven in South Australia. The amount of funding committed by the Australian Government varies from \$3000 for 'Activities for Young People' in

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<sup>121</sup> <http://www.atns.net.au/biogs/A002165b.htm>

Ringers Soak, Western Australia, to \$2 million to the Murdi Paaki Regional Council for 'Improving Living Conditions'.<sup>122</sup>

There appears to be no consistency between agreements, even those in communities in similar circumstances seeking to address similar problems. For example, the Government has variously committed \$3000 for 'Activities for Young People' in Ringers Soak, Western Australia; \$15,000 for 'Structured activities for young people' in Balgo, Western Australia; \$100,000 for 'Sport and recreational activities for young people' in Western Australia'; \$114,000 for a new scout troop in Yalata, South Australia; and \$418,000 for 'Sport and recreation activities for young people' in Dubbo, NSW.<sup>123</sup>

The *National Indigenous Times* (NIT) ran a special feature on the funding of SRAs on 1 September 2005, and the editor criticised the lack of transparency regarding how the resources committed to SRAs are actually being spent.<sup>124</sup> The editor of the NIT pointed out that the amount of money different communities receive under SRAs 'seems to bear no resemblance to the size of the problem or the outcome sought':

Rather, it seems to depend on a combination of factors including the negotiating skills of the community; the negotiating skills of the bureaucrat directly involved in the agreement; and the government department which signs the agreement.

The NSW community of Bourke, with an Aboriginal population approaching 4,000 people, will receive \$47,000 to "Make the town safer".

But the Northern Territory community of Tennant Creek - with an Aboriginal population of around 1,250 - will receive \$363,000 to create "a safer community".

According to the NSW Bureau of Crime Statistics and Research, the annual number of assaults in Bourke in 2004 were almost eight times the state average.

While Tennant Creek irrefutably has a problem with violence, its assault rate sits at around the Territory average.

Tara in the remote Northern Territory has a population of around 120. It's receiving \$45,000 aimed at "Improving school attendance".

Coober Pedy, which has an Aboriginal population of around 340 gets just \$10,000 to "Get kids back to school".

And Brewarrina, which has a population of over 1,000 receives \$245,000 to "Help young people stay at school", although the detail on how that will be achieved is missing from the website.

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<sup>122</sup> <http://www.indigenous.gov.au/sra/kit/table.pdf>

<sup>123</sup> <http://www.indigenous.gov.au/sra.html>

<sup>124</sup> 'The dollars and sense of Shared Responsibility Agreements just don't add up', *National Indigenous Times Issue 88*, 1 September 2005.

The town of Engonia, north of Bourke, with a population of around 100, will receive \$20,000 to "Improve Education".

Interestingly, the Engonia SRA includes a paragraph on what the NSW government promises to provide to the local school, including "... desks and sporting and electronic equipment, and monitor test results."

Is the federal government suggesting NSW doesn't provide desks in the first place?

Regular readers of NIT will know it happens in the Northern Territory community of Wadeye (where up to 100 students arrive at school every day with nowhere to sit), but in NSW as well?<sup>125</sup>

In the same article, Professor Geoff Scott accuses the Government of deliberately withholding information and figures on Shared Responsibility Agreements to escape public scrutiny:

They're only giving half the information. It's very scant and it's not possible to access the full scope of the SRAs... You can't identify other parties' costs or contributions in kind. It's not possible to quantify any of it.

Communities have been told they're not to give information or data out because it's the property of the Commonwealth government.

I think it's a case of a government trying something new and in the process doesn't want to be subject to public scrutiny. And they've taken active steps to make that happen. This area of public accountability and scrutiny which was so rabid and detailed in the ATSIC era, has faded into obscurity. ...

Their policy has been put in place without any research or any planning and without reference to the national indicators framework. Their service delivery is now more complicated. There are numerous agencies delivering the same programs.

In the way they're being implemented, they have far more value as a media propaganda tool than a disciplined and rigorous policy approach. The government has got to take a step back, assess how they've gone then come back and do a rigorous analysis of where their successes and failures have been. That's a sign of a mature agency... but I can't see any culture of evaluation or proper scrutiny.

We all know that there's some very difficult problems in Indigenous affairs and it's going to take that level of maturity and accountability to address it, not blind ideology.<sup>126</sup>

On September 26, Aboriginal leaders Professor Mick Dodson and former ATSIC Commissioner Mick Gooda were quoted as raising specific criticisms of the SRA framework to date. Mick Dodson stated that the process was placing too much pressure on individual communities and marginalising Indigenous bodies:

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<sup>125</sup> Ibid.

<sup>126</sup> Ibid.

Why are they intent on having agreements with individual families and communities and bypassing organisations of our choosing? ...

With the demise of ATSIC we have lost a huge amount of our corporate knowledge in indigenous affairs because those bureaucrats have dissipated.

They have been sacked, or left, or took early retirement. And now you've got a whole new bunch of bureaucrats who know nothing, or very little, about indigenous affairs. ...

They ought not to be saying to indigenous people: 'You need a shared responsibility agreement for us to deliver normal citizenship entitlements that other Australians take for granted. We will give you a school, if you behave in a particular way'. That's discriminatory.<sup>127</sup>

Professor Dodson was also critical of the lack of transparency and accountability under the new arrangements: 'How do we know if the agreements are working if there's no evaluation built into them?' he asked. 'There is enormous political pressure on bureaucrats to boost the numbers of shared responsibility agreements because they look good politically.'<sup>128</sup> Mr Gooda stated that:

Basic citizenship rights should not even be negotiated with an SRA... They should be given as a matter of course. This is the thing that ATSIC used to fight for all the time. Water, power, sewerage in remote Aboriginal communities. We have been fighting for years for these rights and shouldn't just bargain them away in an SRA.<sup>129</sup>

The Government has stated that under its new arrangements, it wishes to sign SRAs with 'communities, families or clans'.<sup>130</sup> However in reality, funding from governments under SRAs must be provided to incorporated organisations. SRAs are actually more like a Memorandum of Understanding, and require funding agreements to underpin them in order to make them operational in terms of the provision of government funding.

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<sup>127</sup> Nassim Khadem, 'Aborigines fear basic rights loss', *The Age*, 26 September 2005, <http://www.theage.com.au/news/national/aborigines-fear-basic-rights-loss/2005/09/25/1127586746550.html?from=moreStories>

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

<sup>130</sup> [http://www.indigenous.gov.au/rpa/common\\_ground.pdf](http://www.indigenous.gov.au/rpa/common_ground.pdf)

## **Regional Partnership Agreements**

On 29 June 2005, Minister Vanstone announced details of Indigenous regional representational arrangements that she described as ‘emerging’ around the country:

We have always stated that, following the dissolution of ATSIC Regional Councils from July 1 this year, there will be room for genuine Indigenous representative bodies to emerge in their place and we are delivering on that commitment.

New arrangements have already been finalised in 10 of the 35 regions covered by the ATSIC Regional Councils and consultations and negotiations are ongoing in others. Indigenous Coordination Centres are taking the lead in consulting with communities about their interest in and preferences for new representative arrangements from July 1 and many are well advanced. ...

In keeping with the Government’s desire to engage at the community level, the new bodies are to act as the interface between communities and governments. They will help articulate community views and provide a framework for contributing to Regional Partnership Agreements.

We want communities to tell us how they could best be represented and we are seeing diverse and flexible arrangements emerge as a consequence.

For example, the Kullarri Regional Indigenous Body in the west Kimberley consists of 12 representatives from 4 discrete clans. In addition to advocating on behalf of the Indigenous community, the Body sees itself as having a role in offering advice, monitoring outcomes of service providers and providing regional plans.

In Central Queensland the community has expressed a desire for a three-tiered model that will feed issues identified at the local level into an overarching Central Queensland Aboriginal and Torres Strait Islander Regional Forum.

Where communities have not yet formalised arrangements for the future, ICC’s are talking with a range of individuals and community organisations, particularly in relation to the establishment of shared responsibility and regional partnership agreements.

To ensure that the new bodies have the opportunity to meet and consult with their communities we, along with State and Territory governments, will provide modest, targeted funding.

I would also like to take this opportunity to thank the Regional Councils and Councillors for their work over the past 15 years. Many of the Councils have been actively involved in working with the Indigenous Coordination Centres and Indigenous communities to develop new arrangements.<sup>131</sup>

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<sup>131</sup> [http://www.vanstone.com.au/default.asp?Menu=vips\\_22.05](http://www.vanstone.com.au/default.asp?Menu=vips_22.05)

Indigenous regional representative bodies recognised by the Government were identified as existing in Murdi Paaki, western NSW; Many Rivers, central and northern coast NSW; the Gulf and West Queensland; Central Queensland; Cairns and District Regional Reference Group; Wunan, east Kimberley; Kullarri, west Kimberley; Yamatji, central west WA; Ngaanyatjarra, Warburton regional WA; Nulla Wimila Kitja, north east SA.<sup>132</sup>

On 12 August 2005, Amanda Vanstone announced the signing of the first Regional Partnership Agreement under the new arrangements in Indigenous affairs, with the Ngaanyatjarra community in Western Australia:

The RPA commits all parties to working together to improve essential services; develop a 20-30 year vision for the future; establish meaningful representative arrangements and reduce red tape.

The RPA is significant in that it represents a commitment from all parties to work together, not just for one individual community but for the twelve communities in the Ngaanyatjarra Lands.

RPA's can be linked to Shared Responsibility Agreements (SRAs) with local communities and in this case the three SRAs signed today support and further the objectives of the RPA.<sup>133</sup>

A copy of this RPA is on the Government's website. There has been no indication of when the other regional representative arrangements referred to by the Government in June will be formalised in RPAs.

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<sup>132</sup> Ibid.

<sup>133</sup> <http://www.atsia.gov.au/media/media05/v0532.htm>

## 8. ANALYSIS: Mainstreaming of Indigenous Affairs

The implications of the mainstreaming of Indigenous affairs have been widely contested since the government's announcement - whether this indicates a shift back to a time when Indigenous people did not have a say over policy and programs that affect their communities; whether this will lead to more accountability by mainstream government agencies who should always have been responsible for delivering appropriate services to Indigenous people; whether accountability regarding mainstream government departments could have been increased with political will and without the abolition of ATSIC; whether the new arrangements are sufficiently premised on adequate research, analysis and evaluation; and whether these new arrangements really will result in better outcomes for Indigenous people. Whether the ultimate aim of mainstreaming is for Indigenous people to reach 'statistical equality' with other Australians or to move towards removing Indigenous-specific programs and services altogether remains open to debate.

### **What has motivated the policy shift to mainstreaming?**

While these new arrangements herald significant changes in the way that Indigenous policy, programs and services are administered and delivered, the approach that underpins these changes has been evident throughout the leadership of the Howard Government. Despite the government's rhetoric, it would appear that the motivation for these policy changes has more to do with ideology than genuinely attempting to address the disadvantage or recognise the human rights of Aboriginal and Torres Strait Islander people.

John Howard has long been outspoken in his opposition to ATSIC, including when he was Opposition Leader and the bill establishing ATSIC was being debated. As leader of the Opposition, he also spoke of leading a 'mainstream government' that made decisions for the whole Australian community and for the 'national good' rather than just for 'interest groups'.<sup>134</sup> John Howard has stated that debate about national identity in Australia involves 'a clash between what can only be called the optimists and the apologists', with the optimists embracing the 'distinctive Australian characteristics of humanity, fairness, egalitarianism and individual risk taking' in contrast with the apologists, who 'attempt the coercion of all of us into a collective act of contrition for the past'.<sup>135</sup> After being elected in 1996, the government substantially cut the budgets of ATSIC and the Aboriginal and Torres Strait Islander Social

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<sup>134</sup> Quoted in Andrew Markus, *Race: John Howard and the remaking of Australia*, Allen & Unwin, 2001, p. 93.

<sup>135</sup> *Ibid.*

Justice Commissioner's office in the Human Rights and Equal Opportunity Commission (HREOC) and passed legislation to diminish the rights of native title claimants that had been recognised by the High Court in the *Wik* decision. In that context, Howard stated: 'We have clung tenaciously to the principle that no group in the Australian community should have rights that are not enjoyed by another group.'<sup>136</sup> The Howard government has been consistently opposed to the recognition and protection of distinct Indigenous rights, and to acknowledging and apologising for the impacts of past government policies of assimilation.

Indeed, the intention to shift away from a rights-based framework is evident. In the transfer of ATSIC's funding and mandate to mainstream government departments, ATSIC's capacity to focus on the distinct rights of Indigenous peoples, including its international advocacy work and focus on a treaty, has been lost. John Howard's rhetoric about all Australians 'being treated equally' throughout the time he has been Prime Minister has become understood as code for the erosion of the recognition of Indigenous rights to land, culture and self-determination.

The Prime Minister and Minister for Immigration, Multicultural and Indigenous Affairs have stated that the motivation for their new arrangements in Indigenous affairs was that ATSIC had failed as an 'experiment in separate representation', and that programs were more effectively delivered to Indigenous people through mainstream departments. The measures by which ATSIC was deemed to have failed were not set out by the Prime Minister or the Minister for Indigenous Affairs, nor was evidence to support the assertion that programs delivered by mainstream departments were more equipped to address Indigenous disadvantage. Indeed, the government itself acknowledged that mainstream government departments have in the past not adequately addressed the disadvantage experienced by Indigenous peoples.

In announcing the new arrangements, the Prime Minister outlined the government's goals in relation to Indigenous affairs as being to improve the 'outcomes and opportunities and hopes of indigenous people in areas of health, education and employment'.<sup>137</sup> If these are indeed the stated goals of the new arrangements, then two of those areas were already the responsibility of mainstream government

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<sup>136</sup> 'Racing Towards an Election', *The Sydney Morning Herald*, 11 April 1998, quoted in Larissa Behrendt, *Achieving Social Justice: Indigenous Rights and Australia's Future*, Federation Press, 2003, p. 3.

<sup>137</sup> Transcript of the Prime Minister the Hon. John Howard MP, Joint Press Conference with Senator Amanda Vanstone, Parliament House, Canberra, 15 April 2004.



departments, not ATSIC. No evaluation of the failure of those mainstream government departments was announced, nor the consideration of any extra funding to work towards the improvements.

### **Isn't a new approach needed as the past 30 years of Indigenous policy have failed?**

The Australian Government's new arrangements are significantly different from previous Indigenous policy approaches by both Coalition and Labor governments. The Minister for Indigenous Affairs has stated: 'A quiet revolution has been underway since 1 July 2004 involving a radical new approach... Nothing short of revolutionary reform is required if we are to turn around the appalling indicators of Indigenous disadvantage and the sense of hopelessness that many Indigenous people face every day.'<sup>138</sup>

There has been wide debate between Indigenous and non-Indigenous people in the media and the broader Australian community about whether ATSIC and indeed all Indigenous policy approaches of the past thirty years have failed to adequately address Indigenous disadvantage. The subtext of this debate is that self-determination has failed, with the implication that Indigenous people cannot be trusted to manage their own affairs. This is despite the fact that many Indigenous people are of the view that government policy did not reflect their own aspirations for self-determination, nor necessarily that of international human rights standards. It is also despite the evidence produced by key inquiries and research regarding the most effective way to deliver services, and the chronic shortfall of government funding.

Jon Altman of the Centre for Aboriginal Economic Policy Research (CAEPR) has described how a 'discourse of crisis' has led to this major change in policy direction.<sup>139</sup> It has certainly been used as a justification for it. Yet drawing on a long-term statistical analysis, Altman states that in reality, there has been slow improvement over time at the national level looking at available statistics on health, education, income, housing and employment, counter to popular views.<sup>140</sup> Whether this has occurred quickly enough and whether improvement has been equitable between Indigenous people remain issues for debate (and of course, everyday reality for Indigenous people), however Altman suggests that broad policy settings have been generally favourable for addressing Indigenous disadvantage.<sup>141</sup>

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<sup>138</sup> Senator Amanda Vanstone, Senate Hansard, 1 December 2004, p. 2, quoted in Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission, 2005, p. 87.

<sup>139</sup> Jon Altman, 'Indigenous Social Policy and the New Mainstreaming', CAEPR Seminar Series, 13 October 2004, p. 9.

<sup>140</sup> *Ibid.*, p. 2.

<sup>141</sup> *Ibid.*

Whether ATSIC as a representative body failed its constituencies is a matter for Aboriginal and Torres Strait Islander people. The government's lack of consultation with Indigenous communities before announcing the abolition of their national representative body, including ignoring the findings of its own review of ATSIC and the evidence gathered as part of that review, shows an extraordinary lack of respect and consideration for the views of Indigenous people about the government policy and programs that directly affect them. Allegations of impropriety and corruption against some elected leaders of ATSIC and implications of mismanagement of resources became convenient scapegoats for the inadequacies of all levels of governments in Indigenous affairs.<sup>142</sup> In the lead up to the 2004 election, it was the Labor Party, originally responsible for establishing ATSIC, who announced that its policy position if elected would be to abolish ATSIC.

The abrogation of responsibility for adequate funding and appropriate policy by all levels of government in the area of Indigenous affairs is the central issue in this debate. Abolishing ATSIC and introducing a whole new policy framework with little consideration for learning from what has worked and what has not in the past in Indigenous affairs does not indicate a genuine commitment to improving the day to day lives of Aboriginal and Torres Strait Islander people.

The view, most publicly espoused by Cape York leader Noel Pearson, that it is 'passive welfare' payments to Indigenous people that are significantly to blame for dysfunction and disadvantage in communities rather than the ongoing legacy of colonisation<sup>143</sup> appears to have particular resonance with the Government. Economic development and encouraging Indigenous people into private enterprise and employment in the private sector are their primary policy strategies, with a particular focus on remote communities. This view is convenient in terms of the Government's broader 'mutual obligation' ideology and its propensity to shift responsibility for problems – and therefore solutions - to Indigenous communities themselves. Community-driven initiatives and strategies and Indigenous control of services and programs are crucial to addressing discrimination and disadvantage, but so is Government funding, support and accountability.

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<sup>142</sup> See for example, Geoff Clark, 'ATSIC is not a Native Title for Scapegoat', *Courier Mail*, 28 March 2003, p. 19; Sophie Morris, 'ATSIC 'made a scapegoat'', *The Australian*, 7 April 2004, p. 3, quoted in Angela Pratt and Scott Bennett, 'The end of ATSIC and the future administration of Indigenous affairs', *Current Issues Brief* No. 4 2005-05, Parliamentary Library Information and Research Services, p. 10.

<sup>143</sup> Noel Pearson, *Our Right to Take Responsibility*, Cape York Institute, 2000, p. 32.

## **What is the difference between old and new mainstreaming?**

As is evident from the statements made by government ministers and public servants quoted earlier, the government has been keen to distinguish its ‘new mainstreaming’ approach in Indigenous policy from ‘old mainstreaming’. Mainstreaming as it has been understood in Indigenous affairs is associated with assimilationist approaches that seek to merge or subsume Indigenous people into the mainstream or dominant culture. The aim of past assimilation policy has been described as a situation where an Indigenous person ‘chooses to attain a similar manner and standard of living to that of other Australians and lives as members of a single Australian community – enjoying the same rights and privileges, accepting the same responsibilities and influenced by the same hopes and loyalties as other Australians’.<sup>144</sup> Mainstreaming in Indigenous policy terms is generally perceived as governments delivering programs and services to all Australians without regard for the distinct history, context or experience of Indigenous people.

So what distinguishes this ‘new mainstreaming’ policy approach from past mainstreaming approaches? As noted earlier, some commentators have supported the new arrangements on the basis that they will require mainstream government departments to be more accountable in their provision of programs and services to Indigenous people. In particular, the Aboriginal and Torres Strait Islander Social Justice Commissioner has identified a number of significant innovations for the delivery of federal programs and services, including:

- Mechanisms that provide leadership and unambiguous guidance to all public servants that addressing Indigenous disadvantage is no longer somebody else’s problem;
- Much potential for improving government coordination, including the wide-ranging role of OIPC and its leverage to promote a more integrated approach to Indigenous service delivery between departments;
- The potential to provide workable solutions to the century old problem of delivering services in a federal system.<sup>145</sup>

While these aspects of the new arrangements should be supported, there is accompanying concern that such commitments have only been undertaken by the federal government in the context of a broader mainstreaming agenda. Such mechanisms and actions need to sit alongside and work with a separate

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<sup>144</sup> Andrew Markus, *Race: John Howard and the remaking of Australia*, Allen & Unwin, 2001, p. 19.

<sup>145</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission, 2005, pp. 87-88.

national and regional Indigenous representative structures and distinct Indigenous-controlled programs and services to be effective, not replace them. Evidence regarding the current shortfalls of funding to address Indigenous disadvantage; broader Indigenous rights and aspirations; and international experience have all been described as suggesting that mainstreaming must happen alongside Indigenous-specific programs if Indigenous policy is to be more than a reversion to assimilation.<sup>146</sup>

The Government has made much in its public statements about these policy changes marking a new, even revolutionary, approach to Indigenous affairs. And yet more than eighteen months on from the implementation of the new arrangements, the evidence emerging is not supporting such statements. As then Senator Aden Ridgeway has stated:

the government's rhetoric in recent times regarding these so-called new arrangements has been at best illusory and at worst nothing short of deceitful, because the disingenuous repetition of the phrases about 'bottom up' and 'community control' cannot change the reality of the policy. That is, that it is top down, it is paternalistic and it is essentially just a veiled—a very thinly veiled—policy of assimilation.<sup>147</sup>

Despite the assurances from the Prime Minister, Minister for Indigenous Affairs and senior bureaucrats that this is not a return to assimilationist policies of the past, the reality of the experience of Indigenous people is that it appears strikingly similar to an era when non-Indigenous ministers and bureaucrats made decisions for and about Indigenous peoples' lives with little genuine input or control by Indigenous people.

### **Can mainstream government departments alone address Indigenous disadvantage?**

As set out earlier, the Commonwealth Grants Commission report, amongst others, has identified the problem of a significant lack of access to mainstream government services by Indigenous people in all regions.<sup>148</sup> The reasons for this may be complex, but are certainly connected to how culturally appropriate the structures and services of the agencies administering them are, including how many Indigenous people they employ at all levels of the organisation. Mainstream government departments do not have a presence in or a connection to many remote and rural Indigenous communities. And the notion that Indigenous people in regional or urban contexts can readily access mainstream services or

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<sup>146</sup> Jon Altman, 'Practical Reconciliation and the New Mainstreaming: Will it make a difference to Indigenous Australians?', *Dialogue* 23, Academy of the Social Sciences, 2/2004, p. 36.

<sup>147</sup> Aden Ridgeway, *Senate Hansard*, 10 March 2005, p. 30.

<sup>148</sup> Commonwealth Grants Commission, *Report on Indigenous Funding*, 2001

programs ignores the long history of racism and paternalism experienced by Indigenous people in dealing with government agencies.

A leaked letter from the Minister for Indigenous Affairs to the Prime Minister revealed that despite the Prime Minister's direction to Portfolio Ministers in December 2000 to undertake a major review into how mainstream government programs could be better delivered to Indigenous communities, almost without exception they did not.<sup>149</sup> While the government has stated its commitment to ensuring that government departments do work towards this goal, the indications from the new mainstreaming arrangements so far are not hopeful.

In its submission to the UN Committee for the Elimination of Racial Discrimination, Australians for Native Title and Reconciliation (ANTaR) stated:

In addition to problems of discrimination in access to mainstream services, Indigenous service-delivery organisations now face considerable problems in dealing directly with mainstream departments in securing funding and accounting for expenditure previously sourced through ATSIC. Anecdotal evidence suggests that many Indigenous organisations have already experienced difficulties since the transfer of their programs to mainstream departments.

Further negative impacts are set to accompany the Federal Government's introduction of competitive tendering for Indigenous-specific services. Portrayed to the public as a measure to ensure efficiency in the expenditure of taxpayers' money, the change introduces the potential for a reduction in the extent of Indigenous participation in and control of service delivery through the loss of Indigenous service delivery organisations and a reduction in the number of Indigenous people employed in service delivery where non-Indigenous tenderers secure contracts.<sup>150</sup>

The Department of Employment and Workplace Relations have introduced a competitive tendering process for Community Development Employment Projects, as has the Attorney General for Aboriginal Legal Services.<sup>151</sup> As ANTaR point out, as well as the loss of Indigenous participation in and control of service delivery, it is likely that non-Indigenous service providers will lack cultural expertise and sensitivity in delivering services, further discriminating against Indigenous clients through reduced or impaired access to services, and that proposed guidelines for tenderers for the provision of Indigenous legal services place a low rating on 'demonstrated capacity to provide an

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<sup>149</sup> Letter dated April 2 2003, quoted in the National Indigenous Times, October 27 2004.

<sup>150</sup> Australians for Native Title and Reconciliation, *Submission to the Committee on the Elimination of Racial Discrimination*, January 2005, <http://www.antar.org.au/CERD%20sub%201-05.doc>, p. 18.

<sup>151</sup> For Briefing Papers on these issues, see <http://www.jumbunna.uts.edu.au/ngiya/papers>

accessible and culturally sensitive service'.<sup>152</sup> And as the report of the Senate Select Committee concluded, the potential of the new arrangements to bring flexible, coordinated and differentiated programs that respond to the needs of individual communities depends on whether the policy of 'new' mainstreaming lives up to its rhetoric and really amounts to a major change in the way things are done.<sup>153</sup> For the Committee, the inquiry raised as many questions as it answered, and provoked wariness about the Government's 'triumphalist rhetoric', that 'papers over a wealth of unresolved detail'.<sup>154</sup>

The current debate and the government's policy approach focus on disadvantage as the only measure of Indigenous peoples' experiences and opportunities. It does not acknowledge the distinct rights or cultures of Aboriginal and Torres Strait Islander peoples, or celebrate their strength and diversity. As Kerry Arabena has stated: 'we must resist being defined by governments as 'disadvantaged citizens' and co-opted into simplistic debates that mask the structural and systemic barriers that have contributed to the situation in which we now find ourselves. A failure to recognise and embrace the cultural characteristics and the cultural capital of Aboriginal and Torres Strait Islander people is one of the major barriers that excludes us.'<sup>155</sup> If the aim of government policy is only about Indigenous people having the same life chances and opportunities as non-Indigenous people, then it is also to erode the collective rights of Indigenous people to land, culture and self-determination.

### **Is this a 'new conversation' in Indigenous policy?**

It is significant that the government refers to its 'new mainstreaming' arrangements in Indigenous affairs as a 'new conversation' that must be more than just words and not an end in itself. The language used by the Prime Minister and Minister for Indigenous Affairs is taken directly from the COAG trials and more innovative policy frameworks. For example, concepts such as 'whole of government', 'collaboration', 'community-based', 'bottom up', 'regionally focused', 'shared responsibility', 'flexible and innovative', 'genuine partnerships with Indigenous communities' have been bandied about. Yet the ideology underpinning the policy changes and evidence of their implementation to date are more

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<sup>152</sup> Australians for Native Title and Reconciliation, *Submission to the Committee on the Elimination of Racial Discrimination*, January 2005, <http://www.antar.org.au/CERD%20sub%201-05.doc>, p. 18.

<sup>153</sup> Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 109.

<sup>154</sup> *Ibid.*

<sup>155</sup> Kerry Arabena, 'Not fit for modern Australian society: Aboriginal and Torres Strait Islander people and the new arrangements for the administration of Indigenous affairs', *Research Discussion Paper*, No 16, AIATSIS Native Title Research Unit, 2005, p. 7.

resonant of past policies of assimilation than a future of genuine Indigenous empowerment and partnership with government. The use of such phrases to describe what are in many cases regressive and ill-conceived policy strategies appears to be empty rhetoric rather than meaningful dialogue.

In speaking to the *ATSIC Amendment Bill 2005*, Aden Ridgeway stated:

It is hard to explain just how saddening it is to sit and listen to senior public servant after senior public servant - those now in charge of running Indigenous affairs - repeating the same old, well-worn government catchphrases... The linchpin of this so-called revolution in Indigenous affairs - the SRAs - is the biggest disaster of them all. They are completely ad hoc, there are no benchmarks, there are no targets. How will these agreements - which are different every time you talk about them - result in improvements to the lives of Indigenous people across the country?<sup>156</sup>

The individualised, ad hoc and seemingly rushed negotiation of many SRAs in response to government-determined policy statements and deadlines mean that they are not connected to broader planning processes, or based on research and data collection that may identify the key areas of need and best strategies for targeting government funding. While government rhetoric asserts that SRAs are community-initiated, collaborative and flexible, there is no clear process set out in the event that any party to the agreement does not live up to its commitments, nor an indication of how change effected by such SRAs will be achieved or measured.

It has become apparent that despite the refrain of ‘mutual obligation’, governments are not fulfilling their commitments to SRAs in reasonable timeframes. As well as the delay in Mulan receiving its petrol bowsers, there are countless other examples. The *National Indigenous Times* recently reported it has taken years for the government to fulfil obligations that it committed to under SRAs with the communities in the Murdi Paaki region in NSW. As a COAG trial site, Murdi Paaki has been involved in negotiating SRAs with the Federal and NSW Governments since 2002. Their first SRA focused on the installation of 200 air-conditioners in community-owned housing in the region, for which they were to receive \$2 million in government funding. The NIT reported that despite the community meeting all of its obligations under the SRA, two and a half years down the track not one single air conditioner had been installed.<sup>157</sup> The chair of the Murdi Paaki Regional Council, Sam Jeffries stated that they were having to spend all their time negotiating separate individual SRAs for funding from governments: ‘The Shared Responsibility Agreements have become the centrepiece, rather than actually doing

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<sup>156</sup> Senator Aden Ridgeway, 10 March 2005, [http://www.democrats.org.au/speeches/?speech\\_id=1561&display=1](http://www.democrats.org.au/speeches/?speech_id=1561&display=1)

<sup>157</sup> ‘Mutual’ MIA in govt’s MO’, *National Indigenous Times*, 10 November 2005, p. 8.

something about the issues.’<sup>158</sup> Given the apparent lack of provision for or commitment to monitoring or evaluating the SRAs, communities have little recourse.

The Government’s withholding of relevant detail on SRAs in order to escape public scrutiny is particularly ironic given the government’s claims of commitment to accountability after its portrayal of ATSIC’s mismanagement of funding and failure to adequately address Indigenous disadvantage. It is difficult to ascertain from the information on the public record exactly how much funding is being spent on the government administration of SRAs, and whether it actually exceeds the amount reaching communities. What is public is that \$27 million of the Australian Government’s \$2.7 billion of Indigenous-specific funding has been allocated under SRAs to under 100 communities. The publicity generated by the Government seems disproportionate in relation to a strategy that allocates 1% of Indigenous-specific funding to services and infrastructure in communities. Again, the Government’s public accountability around funding seems to be more about demonstrating the instant success of their ideologically driven policy than genuine evaluation of positive change in people’s daily lives.

On past experience, it is difficult to imagine the Government taking responsibility for a lack of significant change in Indigenous communities as a result of the SRA approach. It is more likely that the implication will be that Indigenous communities did not live up to their commitments, or that Indigenous people and their organisations haven’t taken sufficient responsibility for addressing disadvantage. Blaming Indigenous people themselves for the problems in their communities - whatever the impact of past or current government policies or experience of systemic disadvantage or discrimination – is not new. It is an all too familiar and one-sided ‘conversation’.

### **Is this the first time communities have been asked directly what they want?**

Minister Vanstone claims that communities have for the first time been given the opportunity to identify the issues that are a priority for them, and to propose solutions that will be listened to. However, the government’s framework for negotiating SRAs seems to be more about implementing government ideology in a rushed and ad hoc way than genuinely working with Indigenous communities to achieve their desired outcomes and aspirations. This framework is being implemented in the wake of the government’s removal of ATSIC regional Indigenous representatives elected by their communities – many of whom worked tirelessly and extensively to advocate for their communities’ needs and

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<sup>158</sup> Ibid.



interests. There are complex issues raised by governments saying they are signing SRAs with ‘communities’ without clear representative structures or processes, and before the negotiation of RPAs.

SRAs may provide some Indigenous communities with the opportunity to negotiate for funding that they may not have been able to access under previous government arrangements. SRAs may also genuinely have the support of communities who sign up to them. However, that does not necessarily make them fair or equitable. There remains an enormous power differential between governments and communities. Notions of ‘choice’ facing communities entering into such agreements become problematic when Indigenous people can not otherwise access desperately needed government funding for services or infrastructure.

While the funding allocated for SRAs is described as ‘discretionary’ and as not affecting the benefits and services that all Australians take for granted, some of the contributions that are to be provided by governments under such agreements are for infrastructure and services that other citizens would consider basic entitlements. From the scant information that is available, it is clear that under some SRAs, funding for essential infrastructure or services is being provided. For example, in Coonana, Western Australia, the community of 90-120 people has entered into an SRA to improve their water supply. The community relies on dam water that is contaminated by feral horses, cattle and camels which is adversely affecting their health. Under the SRA, the Government will provide \$40,500 to fund trap yards, troughs and fencing around the dams to control the feral animals. In return, the community will monitor the stock, build the traps yards and fencing, and maintain the dams. They will also establish a work team to supply labour to local pastoralists. An adequate and clean water supply should by any measure be a citizenship entitlement in a country such as Australia.

In Enngonia, NSW, there is an SRA focused on encouraging young people who do not currently attend the closest high school in Bourke, 100 km away, to participate in a distance education program. The Commonwealth Government will provide \$20,000 to cover rent and costs such as electricity, as well as an Aboriginal teacher’s aide for the project and bus trips for joint school days with Bourke High School. The NSW Government will provide a casual teacher based in Enngonia for high school students, and will also provide desks, sporting and electronic equipment, and monitor test results. When the community of Wadeye adopted a ‘no school, no pool’ policy, it was widely promoted by the Federal and Northern Territory Governments as a successful example of mutual obligation working in

practice in Indigenous communities. However, what was less reported was the fact that when hundreds of children did enrol in school, there was not enough room or facilities to accommodate them.<sup>159</sup>

Accountability and responsibility by government for the provision of basic services and infrastructure becomes conditional for one section of the Australian community based on race. The government's approach to negotiating SRAs means that those communities with greatest capacity to negotiate will have the greatest opportunity to access the 'discretionary' funding set aside, and not necessarily those most in need. Some community representatives and administrators are particularly resourceful and experienced at negotiating with governments, and may be able to engage in the process to their communities' benefit without committing to unrealistic outcomes. However, communities should not be required to commit to behavioural change in order to access funding for infrastructure or services that other Australians take for granted. The SRA framework also prioritises discrete remote communities over urban communities. Indigenous communities should not have to compete with each other to access a small pool of government funding.

### **Isn't the use of the COAG Trials as a model for the new arrangements a positive step?**

The Government has stated that the new arrangements were based on the lessons learned from the COAG trials - the need for effective implementation of shared responsibility principles; the importance of building capacity and effective governance in communities; the need to strike a balance between driving change and allowing change to happen its own pace; and that sustainable change takes time. While these principles are very significant and the trials are showing great promise as a way forward in governments working more effectively together and with Indigenous communities, they have yet to be properly evaluated.

The Select Committee expressed concern that the COAG trials are being used as a model for wider service delivery arrangements before there is any clear idea of whether these trial sites have succeeded or not.

In point of fact, the COAG trials are yet to be assessed in any authoritative manner; until such time as that occurs, the likelihood of success of the new arrangements is difficult to gauge, and as such, represents a risk in terms of public policy.<sup>160</sup>

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<sup>159</sup> McLaughlin, M., 'Questions raised over Wadey program', 7:30 Report, ABC TV, 28 April 2005.

<sup>160</sup> Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 91.

As Reconciliation Australia pointed out in their submission to the Select Committee:

Politics has determined the timing of the current re-shaping of Indigenous affairs at national level. This being the case, there is great danger in applying as a model for universal change approaches such as the COAG trials, which are still highly experimental and have not yielded any quantifiable outcomes, let alone positive outcomes.<sup>161</sup>

This raises a significant issue about the government's new arrangements more generally. The abolition of ATSIC raises a whole range of questions about transparency around government policy in Indigenous affairs, and about accountability to Indigenous communities and to the broader Australian community. Who will monitor and evaluate the effectiveness of the government's new arrangements? How will such effectiveness be measured? How can strategies such as Shared Responsibility Agreements be evaluated when they are ad hoc, without clear benchmarks or targets?

### **Shouldn't resources be allocated in remote communities where there is greatest need?**

The government's new arrangements prioritise the needs of Indigenous people who live in remote areas. That the needs of people in remote areas are significant and urgent is not in contention. Neither is the fact that funding for programs, services and organisations targeted towards Indigenous people is vastly inadequate across Australia. The shift to mainstreaming means that Indigenous peoples in regional centres and urban areas are expected to access mainstream agencies. As noted above, this presumes that those mainstream agencies are accessible and appropriate for Indigenous people, despite extensive evidence to the contrary. As Professor Larissa Behrendt stated in her evidence to the Select Committee:

It has certainly been the case with funding arrangements now that there is a focus on remote and rural areas. Nobody would argue against the need in those communities, but it is being done at the expense of some very important organisations within the urban areas ... [T]hat is a huge concern for us, particularly here in Sydney in our Redfern and Mount Druitt communities. We see enormous socioeconomic problems within our communities, enormous issues that are of concern in every other community across the country in terms of service delivery, the health and wellbeing of our children, substance abuse, cyclical poverty, sexual abuse.<sup>162</sup>

Given the substantial proportion of the Indigenous population who live in urban areas, this is a significant failing of the new arrangements.

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<sup>161</sup> Reconciliation Australia, Submission 225, p. 4, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 92.

<sup>162</sup> Professor Larissa Behrendt, *Committee Hansard*, Sydney, 2 February 2005, p. 27, quoted in Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC: Life in the mainstream?*, March 2005, p. 110.

## 9. CONCLUSION

The government's announcement of its abolition of ATSIC and its 'new mainstreaming' approach and ensuing debate has resonated with language such as the 'failed experiment of self-determination', 'second rate Indigenous programs', and the 'damage done by ATSIC'. Such rhetoric has allowed a significant ideological shift to overtake Indigenous policy making and program and service delivery. These wide ranging changes to the administration of Indigenous affairs have been introduced with little evaluation of what has genuinely worked in Indigenous policy, using measures that are relevant to Indigenous communities and not just governments. For many Indigenous communities, one of the most significant outstanding issues in government administration of Indigenous affairs remains adequacy of funding. Ample evidence exists to show that governments underspend in the key areas of Indigenous health, education and housing, and that Indigenous people prefer to access Indigenous-specific, culturally appropriate services and programs. Given the significant levels of Indigenous disadvantage, any government policy framework that does not seek to respond to these two factors is not likely to be successful. The evidence emerging regarding the government's new arrangements in Indigenous affairs suggests that their rhetoric is not matched by reality, and that once again it is Indigenous people who will be the casualty of ill-conceived and ideologically driven government policy.