Setting the Agenda: Introductory Remarks at the ATSIC National Policy Conference

Geoff CLARK – is Chairman, Aboriginal and Torres Strait Islander Commission.

... The theme, setting the agenda, is an apt one. It’s what we have been striving to do since ATSIC opened its doors just over ten years ago. I’m sure everyone in this room will agree it can be extremely difficult. There is still a fundamental inability on the part of many of our politicians and our mainstream media to recognise – let alone understand – what ATSIC is, what it does, where it fits, and the complexity of Indigenous affairs.

Indigenous affairs is one of the few policy arenas where most, if not all, government and non-government agencies and individuals, play a part and have a degree of responsibility. There is also widespread misunderstanding of the complex relationship between our fight for the recognition of the inherent rights of our people and ATSIC’S supplementary role in the delivery of services to our constituents. We also have to engage in the emerging debate on welfare dependency and the responsibility of line agencies in delivering services without losing sight of what we have done, who we are, and where we are going.

Changing Direction

Phillip RUDDOCK – is Minister for Immigration and Multicultural and Indigenous Affairs.

...The Government recognises the important role that ATSIC fulfils as an advocate for Indigenous Australians.

ATSIC is our principal source of Indigenous advice and we value it. And I thank Chairman Geoff Clark for the forthright and constructive approach that he has taken with me and other Commonwealth ministers. At this conference we are gathered for one common purpose – securing a fair and just future for Aboriginal and Torres Strait Islander peoples.

Of course we will have our differences and there are some issues on which we will agree to disagree. But there is much common ground and we should not allow those few things that are not agreed to incapacitate relationships and impede progress.

The ATSIC Rights Agenda

Dickie BEDFORD – is the ATSIC Commissioner for the Kimberley zone.

... I am a member of the Bunuba people. This status clarifies my sense of place in relation to all the other members of my tribe. To put that into some sort of context for people, my tribe is Bunuba. My skin group is Jumbin. And our traditional country comprises
approximately 110km radius of the town of Fitzroy Crossing which is a remote town in the centre of the West Kimberley.

My people, the Bunuba, are the traditional tribe of the renowned warrior Jandamarra. Jandamarra’s heroic resistance to the invasion of Bunuba country in the late nineteenth century continues to inspire Bunuba people today. Jandamarra’s struggle against the settlers and police was a complex story.

Just as is our response to the way Aboriginal society is responding to non-Aboriginal people today, Jandamarra, who was trained in the ways of the whites, felt an enormous responsibility to defend his people, their culture, traditions, and religion against the onslaught of an arrogant and destructive invader. When large numbers of cattle were pushed into Bunuba country destroying the most important of cultural places, Jandamarra led his people in a military fight that involved guns and pitched battles.

… As a warrior, Jandamarra’s endeavours were driven by his commitment to protect the interests of his people against unjust acts by non-Indigenous persons and institutions for the purpose of dispossessing them of their traditional, physical, social and cultural connections purely for the sake of ‘progress’.

… However, for the purpose of my presentation today I have used the example of Jandamarra to demonstrate that my people have been involved in processes that seek recognition of the rights that inhere to them as the first peoples of this country for many, many generations and that this has occurred in many forms as records of history will attest.

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**Aboriginal Rights Recognition in Public Policy: a Canadian Perspective**

**Neil J. STERRIT** - the author wishes to acknowledge the kind assistance of Stuart Rush and Peter Grant of Vancouver, and Joe Sanders of Ottawa.

The underlying philosophy of Canada’s current *Indian Act* has existed for nearly 250 years, born and nurtured in Canada’s colonial past. How can this stature endure today as a product of 18th century colonialism?

The attitudes and biases of elected government leaders are a major barrier to aboriginal rights recognition in public policy. In 1968, then Prime Minister Trudeau, speaking about aboriginal and treaty rights, introduced his government’s proposal for dealing with the ‘Indian problem’. In his speech, the Prime Minister proposed a set of solutions, saying that his government would recognize ‘forms of contract (e.g. treaties)’ with aboriginal people. Denying the existence of aboriginal rights, he flatly said: “our answer is ‘no’” to aboriginal demands for aboriginal rights recognition and preservation.

In 1975, I met with then British Columbia’s Attorney General to discuss aboriginal economic development in northern BC. During our conversation he blurted, “Just because a bunch of Indians wandered up and down the Rocky Mountain Trench for a few hundred years doesn’t mean they own it.”

Nine years later, at a nationally televised First minister’s conference on aboriginal matters in Canada, BC's Intergovernmental Affairs Minister challenged a young Inuit leader from northern Quebec, with, “Do you mean to say that because you people hunt these animals, you think you own them?” To which the witty leader replied, “You white people think differently. You put fences around animals. Now that I think about it, you even fence your vegetables.” He might have added, “You fence aboriginal people too --- within reserves and public policy.”
Self-determination and Indigenous Policy: the Rights Framework and Practical Outcomes

Larissa BEHRENDT – is Professor of Law and Indigenous Studies and the Director of the Jumbunna Indigenous House of Learning at the University of Technology, Sydney.

Fresh-faced out of Harvard Law School, armed with my doctorate, I went to work in Canada on a treaty negotiation project for Treaty 8 First Nations of Northern Alberta. The negotiation was part of the Canadian government’s Inherent Right to Self-Government policy. This meant consultation with First Nations people, communities and leaders about how they wanted the policy to be interpreted. Excited at the prospect of hearing discussions at a grass roots level about what the right to “self-government” would look like, I became frustrated that, after our eloquent presentation about the possible parameters of the policy, the first person who would get up to speak would say, “first we have to talk about the gun licences.”

In my ignorance I failed to see that this was the key to self-government. It was about a way of living life. In that area, the Cree have hunted moose since the beginning of time. The regulation of gun licences stops them from continuing to use moose as apart of their way of sustaining life, providing income and livelihood, and needed for ceremony. And the clear message, when I removed my legal blinkers, was that self-government was about sustaining a way of life and a cultural tradition. I think this is a universal aspiration and today I want to talk about this notion of living life the way you want to, something we also call “self-determination”.

Indigenous Rights Recognition in Public Policy – a Domestic Perspective

Marg Donaldson - Officer from the Native Title Unit and Social Justice Unit
Cyndia Henty-Roberts - Officer from the Native Title Unit and Social Justice Unit

and Eleanor Hogan – Officer from the Native Title Unit and Social Justice Unit

… Partly to give our presentation some coherence, and also because of the aptness of the metaphor we wish to liken policy formulation to three Russian dolls; one sitting inside the other in ever-decreasing size. The outer doll is the constitution, in which the subjects of power are articulated. The middle doll is the legislative framework, in which power is allocated (to defined bureaucracies, and between various stakeholders in differing degrees). The small doll represents the myriad of decisions and discretions in which power is exercised. All three of these notions of power, power as subject, power as location, and power exercised are integral to the policy process.

How to Engage Indigenous Peoples in Policy Development

Richard Young – is Director, Young Directions Pty. Ltd.

… I’d like to say thank you, and ATSIC, for inviting me, to present on how to engage Indigenous people in the policy development process and just to give you an overview
of my presentation, talk a little bit about family, share some Indigenous perspectives about how to engage Indigenous people, look at some current examples, and then talk about a collaborative model which I developed for non-Indigenous organisations wanting to work with Aboriginal community-based organisations.


Constitutional Role and Rights of Indigenous Workers in the Policy Process

Michelle Thorne – is an ATSIC Regional Councillor.

… What role is it that we play as Indigenous employees?
More often than not, we see our role in a different light to others. The expectations and values we place on ourselves are continuously greater than in mainstream society. At the same time, the expectations placed on us by others are also greater than that of other employees. Why is this so? To understand this I think we must first look at the bigger picture.

Our roles in society, community and the workplace are not easy ones and these most frequently require a great deal of balancing, perhaps we are the best jugglers in the world.

… For Indigenous people employed in positions within Government Departments, there is often confusion and conflict over the role that they play. In the development of policy, as an Indigenous person you find yourself constantly relating to the human impact of such policy. For others the consequences may not so directly impact on their immediate lives and families. Therefore, there is an element of numbness that appears. This is not necessarily a bad thing, but one that brings into the debate is what is ‘our role’. One would expect it to be the former. If this is the case, what contribution can we make and how should it be considered? Does it matter what level that person operates at, be it an ASO3 to a SOGC? Should the contributions be any less valued because of it?

Consultation and Negotiation with Indigenous Peoples

Jack BEETSON –

There is bittersweet irony in being asked to speak on this topic given that, some years back Tranby was excluded from participating in consultation on a bureaucratic policy change which ultimately meant that Tranby was no longer eligible for funding for education purposes from that particular bureaucracy… so we may well ask what the process of consultation and negotiation was there!

After so many years of developing policy on behalf of Aboriginal and Torres Strait Islander peoples, you imagine that all those currently creating policy would have a very clear idea of the difficulties resulting from policy created in a bureaucratic vacuum – policy created according to the demands of government and not the demands of communities.

Regarding the specific topic to be covered by me this afternoon, you all know the importance of timing, form and depth of communication in your relations with our communities. I am not here to tell you what you already know. Consultation? Negotiation? All words that are bandied about in ‘dealing with’ communities. Communities refer to consultations and negotiations as mostly opportunities for bureaucrats to have their say, record the fact that they visited a community, consulted and left. Negotiation may require a more sophisticated type of approach, meaning that community members are invited to respond, not just to listen. Either way, the terms of consultation and
negotiation are invariable written up in the language of the bureaucracy, not in the language of our communities!

So – we all know what needs to be changed here.

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**Some Features of Evidence-based Policy Making for Aboriginal Peoples and Torres Strait Islanders**

**Andrew WEBSTER –**

... Policymaking in Indigenous affairs is a joint effort between Australian governments and Aboriginal and Torres Strait Islander peoples and organisations. What are the features of evidence-based policymaking, and how might they assist us to approach policymaking in a different way? How can an evidence-based approach enhance the quality of dialogue among policymakers and promote the formation of stronger policy partnerships?

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**The End of the Line – a Regional Perspective on Policy and the Benefit of Linkages Between Agencies**

**Kim HILL –** Commissioner, Aboriginal and Torres Strait Islander Commission.

What do we mean by ‘The end of the line’? Agencies talk about the ‘community’ as being ‘at the end of the line’ in service delivery or at the ‘grass-roots’. But I say the end of the line is now, our communities can take no more. We, and I mean government agencies, NGOs and communities collectively, must make a new beginning. And we must begin with the community. I want to talk with you today about how we make that new beginning, how communities must be an equal partner with agencies in policy making and service delivery, and what will be the benefits.

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**ATSIC Setting the Agenda**

**Geoff SCOTT –** is Deputy Chief Executive Officer of the Aboriginal and Torres Strait Islander Commission.

The idea that policy development and decisions are the result of rational and open process of consultation, negotiation and trade-offs, that seek to find an optimum balance between contending perspectives and needs, is a myth. Policy making is a jungle that is very difficult to negotiate, requiring detailed insights, networks and knowledge.

To be effective in the policy arena you must be clear about:

- The objective sought;
- The content of the policy agenda;
• The nature of the policy jungle (who are they, who are involved, who are the stakeholders); and
• The room to manoeuvre given the political and economic context of the community, of the region, of the state and of the country, and the specific policy changes involved.