

Submission to the ATSIC Review Committee

The Bennelong Society

1. The Bennelong Society was established in May 2001 to promote critical examination of government policy with respect to Aboriginal affairs, and to seek to influence public opinion so that the prospects for amelioration of the present appalling plight of many contemporary Aboriginal people would be improved. At the Bennelong Society conference held in Brisbane in August 2002, several Aborigines presented papers which expressed serious dissatisfaction with the administration of Aboriginal affairs, and with ATSIC in particular. One speaker remarked that if ATSIC were a company he would have sold all his shares long ago. Other anecdotal evidence suggests that many Aborigines themselves want a major reduction in the role of ATSIC. It is clear that it is not just non-Aboriginals who are proposing reform.

2. ATSIC was established in 1989, with the passage of the Aboriginal and Torres Strait Islander Commission Act. The Bill had a very long and difficult gestation period of more than 18 months; difficulties which arose from the very essence of the Minister's (Mr Gerry Hand) ambitions, which was, as he stated in his second reading speech,

“We have sought to balance the objective that Aboriginal and Torres Strait Islander people should have greater control over matters affecting them, with the principal of ministerial accountability for the correct and efficient use of public funds. . . .”

“Thus ATSIC is to combine, in one organisation, the means for Aboriginal and Torres Strait Islander people to have a real say in the management of their own affairs with an administrative structure that eliminates existing overlaps. It will be more responsive to Aboriginal and Torres Strait Islander wishes and attain appropriate standards of accountability for public funds.” (Hansard 4-May-1989 p 1994)

One of the express objects of the Act, set out in s3(b) is

‘To promote the development of self-management and self-sufficiency among Aboriginal persons and Torres Strait Islander . . .’

3. The key words here are ‘self-management and self-sufficiency’, but the words which were driving the policy debate on Aboriginal affairs at that time were “autonomy” and “self-determination”. The strongly held view within the Hawke government and some aboriginal circles was that the declining state of Aboriginal well-being that was then becoming increasingly evident, was the consequence of many years of paternalist and assimilationist welfare policy, characterised by a Minister, who was responsible to the Parliament, and who was supported by a department which carried out policy as approved by the government of the day. Expenditures were authorised under a line item in the annual budget. This had been the traditional Westminster practice which had developed with the growth of responsible government following the English Civil War and the deposition of James II in 1688.

4. Paul Hasluck was the minister who had dominated aboriginal policy from the early fifties

until his appointment as Governor-General in 1968. He had enjoyed bi-partisan support, but the post-Menzies generation of political leaders lost no time in reversing his major policy position, which was that of seeking to integrate, through education and participation in the economy, Aboriginal people into mainstream Australia. This was a process, he believed, which would take generations.

5. From the seventies on, and again with bipartisan support, policy and rhetoric were built on the ambition of overcoming the 'disadvantages of Aboriginal persons and Torres Strait Islanders to facilitate the enjoyment of their culture' to use the words of the preamble to the ATSIC Act.

6. One of the many ironies, indeed contradictions, of the ATSIC enterprise was that it asked the ATSI peoples to engage in a political process - nominations, political campaigning, elections, etc, - which was totally alien to the culture which the Act was supposed to support and maintain. The authority structure of the traditional Aboriginal world was that of a male gerontocracy, or theocracy, where religious and legal power, including even the power of instant execution, was confined to the male elders who were legitimised by their knowledge of secret ceremonies and secret stories.

7. The existence of ATSIC as an elected body with its own spending powers, and not formally accountable to the Parliament which funds it, is encouraging division between Aboriginal and non-Aboriginal Australians. For many years a small minority in Australia has campaigned for Aboriginal sovereignty and a for separate Aboriginal state. These arguments have been supported by only a minuscule number of Australians, although many articles and some books have been written in support of the proposal. ATSIC has, not unreasonably, been seen by some as an important step towards Aboriginal sovereignty, and the expenditure by ATSIC of considerable sums in maintaining offices and accommodation in Geneva and London for the purposes of lobbying at international fora supports that view. Most Australians regard arguments for Aboriginal sovereignty as a nonsense, but to the extent that ATSIC expenditures and continuing demands for a treaty support such demands for sovereignty, then resentment and hostility towards ATSIC, and to Aboriginal Australians, will grow. However, it is clear that most Aboriginal Australians wish to take their place within the wider Australian community, and not as citizens of a separate Aboriginal state. They want education, jobs, and the opportunity to live a normal Australian life. ATSIC runs counter to these aspirations.

8. ATSIC is an experiment in pan-indigenous politics gone wrong. Its constituents are Australian citizens who are entitled to certain benefits, assistance and opportunities that should be made available on the basis of need and choice. The politicisation of Aboriginal service provision, a fault ATSIC has in common with Land Councils, has created a Tammany Hall style of grace and favour politics. The politicians have constituencies that are so small, and so dominated by clan allegiances, that votes can be bought *en bloc*. Placing more services at the discretion of Aboriginal politicians is against the interests of needy Aborigines. The Bennelong Society submits that what is needed is a new direction in Aboriginal policy for the Commonwealth government. 'Fund the program, not the politics'. The aim of the new direction is to free Aborigines from the politics of grace and favour, to allow them to receive entitlements on the same basis as any other Australians in need, and not as a reward for political favours. The essence is to separate representative politics (alien to traditional Aboriginal culture) and service provision. The politicisation of the grants

system is manifest in the record for 2000-01, when ATSIC handed out 3287 grants, totalling over \$800M, to 1058 Aboriginal organisations. It is virtually impossible to ascertain for what purpose these grants have been used.

9. After nearly 14 years since the establishment of ATSIC, it is clear that this social and political experiment, however well intentioned, has failed. By every index of social morbidity, the quality of life for the majority of Australia's aboriginal people, particularly those who living in distinct aboriginal communities, is declining. Suicide, alcoholism, incarceration, substance abuse, domestic violence and child abuse of the most awful kind, have increased markedly over the last 25-30 years and are still increasing. Longevity, standards of literacy and numeracy, employment, are declining. Life expectancy, for Aboriginal males in particular, has plummeted.

10. It now has to be understood that the wide body of opinion, encompassing both sides of politics, that was convinced that no progress in overcoming ATSI disadvantage and poverty could take place until the ATSI people had greater control over the expenditure of public funds, was profoundly mistaken. Our parliamentary system of political life enables just such a reappraisal to take place. This Review of ATSIC is part of that parliamentary process and the Bennelong Society believes that in the light of the tragedy that is now enveloping so many Aboriginal communities, major changes to public policy must take place.

11. It is against this stark reality that the value of every institution which influences Aboriginal life has to be weighed. ATSIC's contribution is most starkly revealed when its record on the question of domestic violence and child abuse, is examined. ATSIC brushed aside the problem. And given ATSIC's preoccupation, over the past decade, with the politics of the UN and other international fora, its indifference to this issue is now a matter of condemnation.

12. The purposes to which ATSIC has devoted a substantial proportion of the funds which have been allocated to it; its ability under the ATSIC Act to avoid ministerial oversight, upheld by the Federal Court in *Aboriginal Legal Services v Senator Herron* 1996; scandals and litigation surrounding eligibility to vote and irregularities in ATSIC elections; but above all the appalling and worsening state of life in Aboriginal communities; are forcing a reappraisal of the ATSIC Act. The remainder of this submission discusses proposals for reforms which, it is argued, will reverse the increasing social morbidity amongst aboriginal communities.

13. First, it has to be accepted that a return to the Westminster system of ministerial responsibility and parliamentary accountability is essential. The totally artificial politics of ATSIC must be abandoned. ATSIC should become a body advising the Minister of the needs of ATSI people, where these are different to other citizens. All ministers consult with the people whose lives are affected by government policy. Industries and social groups are organised to liaise with Ministers and to lobby for their constituents. Political debate often centres on whether the Minister has consulted widely enough, or whether his consultations have been politically arranged with a particular policy outcome predetermined. The old, elected ATSIC has caused so much division between clans, and over eligibility to vote that the new ATSIC will have to be appointed by the Minister. As in all such situations the Minister will never satisfy everyone, or even most people involved, but there is no alternative at this point.

14. There is such a vast gulf between the lives of urban Aborigines, and the lives of Aboriginal people living in remote communities, that a Minister has to be able to establish communication channels which take into account the very different situations which are to be found, and there cannot be a one formula approach to this issue. Whether and to what degree these advisory and consultation processes need to be formalised is a matter for political judgment.

15. All Aboriginal-specific funding should come under the Minister, in a re-created Department of Aboriginal and Torres Strait Islander Affairs. As the Torres Strait people are much more geographically confined, their regional model should continue and advise the Minister directly of the needs of Islanders. The Commonwealth should fund the most competent service providers. Aboriginal service providers should compete with any other group whether government or non-government in service provision.

16. As for specific programs, the Bennelong Society believes that Aborigines in remote Australia, living in Aboriginal-controlled settlements are the most disadvantaged people in Australia. Certainly their quality of life compares unfavourably with the poorest countries in the world. Policy must be set as to offer Aborigines an opportunity, with the necessary assistance, to leave these regions to find a better life. A major part of this policy must be the funding of boarding school places for children. Scholarships should be made available for disadvantaged students, tenurable at any school that parents and students choose. Other services, health, housing, domestic violence, legal and so forth, should tender for Commonwealth program support. Incompetent service providers should not be supported. Some Aboriginal service providers will survive such competition, others will close. The beneficiaries will be needy Aboriginal people. The losers will be those who have sought to provide a job for themselves in Aboriginal-controlled organisations that rely on public funding but whose viability rests on political support, not on client satisfaction.

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