



## **The new arrangements for Indigenous affairs – facilitating Indigenous access to government services**

It has now been over two years since the federal government introduced new arrangements for the administration of Indigenous affairs. One of the catchcries of the new arrangements is that they are aimed at ‘harnessing the mainstream’. This is to be achieved by removing or reducing the barriers that prevent Indigenous peoples from accessing existing mainstream services on an equitable basis. There are two ways of achieving this: first, mainstream departments can improve their service delivery so that existing mainstream services are better able to meet the needs of Indigenous peoples; and second, the whole of government machinery of the new arrangements for Indigenous affairs can be utilised to create better synergies between mainstream programs and Indigenous specific services. The focus of this chapter is primarily on this second aspect of ‘harnessing the mainstream’.

This is the third successive year that the *Social Justice Report* has considered the impact of the new arrangements. The two previous reports have expressed concerns at the lack of progress in ‘harnessing the mainstream’ and the existence of structural problems within the new arrangements that work against this objective (such as the absence of processes for systemic engagement with Indigenous peoples locally, regionally and nationally; the absence of appropriate monitoring and evaluation mechanisms; and the under-performance of Shared Responsibility Agreements and the new whole of government machinery in ‘unlocking’ mainstream accessibility).

Sufficient time has now passed to identify whether the new arrangements have indeed begun to positively impact on the accessibility of mainstream services for Indigenous peoples, and consequently to demonstrate their potential to impact on the social and economic disadvantage experienced by Indigenous peoples. This chapter focuses on the performance of the new arrangements, with a particular emphasis on this objective of improving access for Indigenous Australians to mainstream services.

Part 1 of the chapter provides a broad overview of the challenges of improving accessibility of mainstream services for Indigenous peoples, as well as the commitments made to achieve this through the new arrangements. Part 2 then considers the existing potential and current progress in ‘harnessing the mainstream’ through the new arrangements for the administration of Indigenous affairs.



As this chapter demonstrates, a degree of instability appears to characterise the new arrangements in Indigenous affairs with a seemingly endless raft of complex changes to the government's administrative processes, policies and programs. The rhetoric of the arrangements is strong, but the outcomes remain elusive. The chapter analyses the processes of the new arrangements in some depth and offers suggestions about how existing commitments and processes could be turned into action.

## Part 1: The challenge of ensuring equal access to mainstream services for Indigenous peoples

### Background – the new arrangements for the administration of Indigenous affairs

New arrangements for the administration of Indigenous affairs were introduced as of 1 July 2004. The arrangements abolished the Aboriginal and Torres Strait Islander Commission (ATSIC)<sup>1</sup> and Aboriginal and Torres Strait Islander Services (ATSIS), and transferred responsibility for ATSIC/ATSIS programs to mainstream agencies. The federal government held high hopes for the new arrangements. ATSIC was seen as the cause of the failure to improve Indigenous disadvantage and therefore abolishing ATSIC would clear the way for effective coordinated programs. The then Minister for Immigration and Multicultural Affairs, Senator Vanstone, observed that:

No longer will governments persist with the ATSIC experiment that has achieved so little for Indigenous people.<sup>2</sup>

Under the new arrangements, the administration of Indigenous-specific programs became the responsibility of mainstream government departments. A brief description and rationale of the new arrangements was provided by Senator Vanstone on 30 June 2004, which stated, *inter alia*:

More than \$1 billion of former ATSIC-ATSIS programmes have been transferred to mainstream Australian Government agencies and some 1,300 staff commence work in the new Departments as of tomorrow.

We want more of the money to hit the ground. We are stripping away layers of bureaucracy to make sure that local families and communities have a real say in how money is spent.

Mainstream departments will be required to accept responsibility for Indigenous services and will be held accountable for outcomes. In future they will work in a coordinated way so that the old programme silos of the past are broken down.

Guiding whole-of-government service delivery with Indigenous representatives will be Partnership Agreements developed at the regional level and shared responsibility agreements at the local and community level. The new approach will

1 ATSIC was created in 1989 and commenced operating in 1990 until 2004. It was a fully elected Commission with 35 Regional Councils and a national Board of Commissioners. In 2003, the service delivery responsibilities of ATSIC were administered by a newly created body, Aboriginal and Torres Strait Islander Services (ATSIS).

2 Vanstone, A., (Minister for Immigration and Multicultural and Indigenous Affairs), *Australian Government Changes to Indigenous Affairs Services Commence Tomorrow*, Media Release, 30 June 2004.



require communities to offer commitments such as improved school attendance in return for Government funding initiatives.<sup>3</sup>

The new arrangements aimed to remove, or at least reduce, barriers that prevent Indigenous peoples from accessing existing mainstream services on an equitable basis.<sup>4</sup> This objective has been called ‘harnessing the mainstream’.

‘Harnessing the mainstream’ is an evocative phrase suggesting that there is considerable potential for Indigenous advancement by improving access to mainstream programs for Indigenous peoples. This can involve removing barriers and constraints to accessing services, using mainstream programs creatively to work in tandem with Indigenous-specific programs, and delivering mainstream programs in a more flexible and less bureaucratic manner.

The Secretary of the Department of Prime Minister and Cabinet, Dr Shergold, explained the objective of improving performance of mainstream services through the new arrangements as follows:

complex problems, particularly in public policy, are rarely resolved by structures. Public servants are remarkably good at structures. Put public servants together for half an hour and they can rearrange the boxes very easily... The solution that is required here on Indigenous affairs is necessarily a whole-of-government solution. One of our key failings, I think, in terms of public policy is the failure to have a whole-of-government approach to issues... The key is to change the culture of how public servants deliver public policy. That is my first point.

My second point is that I think mainstreaming has been an enormous failure. If I thought we were returning to mainstreaming in the old sense I would not support it at all. But define mainstreaming. All the literature that I have seen says there are a number of qualities to mainstreaming. The first is that you do not have Indigenous specific programs. The second is that each department and agency 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. Those are the four key ingredients of mainstreaming.

The government’s new approach is completely at odds with each of those four criteria. It is committed to maintaining the funding for Indigenous specific programs. It has established an Office of Indigenous Policy Coordination and Indigenous coordination centres across the country. It has made it clear that the mainstream departments have to work together, and it has said that there needs to be flexibility in programs so they can respond to local need. What we have here is a quite new approach. It will not work quickly; this is in for the long term. It is not mainstreaming in the sense of the articles that have been written criticising it. It is a new whole-of-government approach, and that is what I am committed to.<sup>5</sup>

3 Vanstone, A., (Minister for Immigration and Multicultural and Indigenous Affairs), *Australian Government Changes to Indigenous Affairs Services Commence Tomorrow*, Media Release, 30 June 2004.

4 Office of Indigenous Policy Coordination, *New arrangements in Indigenous affairs: Attachment F: National Framework of Principles for Delivering Services to Indigenous Australians*, OIPC, Canberra, 2004, p51.

5 Shergold, P., Hansard, Senate Select Committee on the Administration of Indigenous Affairs, *Inquiry into the Aboriginal and Torres Strait Islander Bill 2005*, 8 February 2005, p2, available online at [www.aph.gov.au/hansard/senate/commtee/S8106.pdf](http://www.aph.gov.au/hansard/senate/commtee/S8106.pdf) accessed 14 February 2007.



I have discussed the new arrangements (constituting a 'quiet revolution' according to Senator Vanstone<sup>6</sup>) in detail in the past two Social Justice Reports.<sup>7</sup> The government's new approach to Indigenous affairs reflects its strong commitment to what it terms 'practical reconciliation'. As my predecessor, Dr William Jonas AM, observed in the Social Justice Report 2003:

The government has emphasised time and again that the key focus of reconciliation should be on practical and effective measures that address the legacy of profound economic and social disadvantage.<sup>8</sup>

A number of commentators have noted that in some respects these new arrangements are not all that new.<sup>9</sup> 'Mainstreaming' as such has been a mainstay of Indigenous policy discourse for many years.<sup>10</sup> What was particularly new was the abolition of ATSIC and thereby the loss of an Indigenous representative voice in the processes of government at national and regional levels.

So how have the new arrangements matched with the rhetoric and begun to demonstrate their potential to impact on the social and economic disadvantage experienced by Indigenous Australians? This chapter examines the efficacy of the new arrangements, including in respect of the objective of improving access for Indigenous Australians to mainstream services.

## Indigenous disadvantage and human rights

There is no dispute that there is a significant problem in respect of Indigenous disadvantage in Australia. As Gary Banks, Chairman of the Productivity Commission has noted in the Foreword to the Report *Overcoming Indigenous Disadvantage – Key Indicators 2003*:

Notwithstanding many years of policy attention, this Report confirms that Indigenous Australians continue to experience marked and widespread disadvantage. This is shown most fundamentally by the 20 year gap in average life expectancy between Indigenous and other Australians.<sup>11</sup>

More recently Dr Ken Henry, Secretary of Treasury, commenting on the extent and persistence of Indigenous disadvantage in Australia, observed that 'Indigenous

6 Vanstone, A., (Minister for Immigration and Multicultural and Indigenous Affairs), *Address to National Press Club*, Speech, 23 February 2005: "Happily, I can say a quiet revolution in Indigenous affairs is already underway."

7 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, HREOC, Sydney, 2004, Chapter 3 and Appendix 1, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, Chapter 3 and Appendix 1.

8 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2003*, HREOC, Sydney 2003, p13.

9 Gray, W. and Sanders, W.G., *Views for the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs*, Centre for Aboriginal Economic Policy Research (CAEPR), Discussion Paper no 282/2006, pp19-22.

10 See, for example, the Whitlam Government's reforms to the delivery of government services to Aboriginal communities in the Northern Territory in the early 1970s which dismantled the all-encompassing service provision umbrella of the Social Welfare Branch of the Northern Territory Administration in favour of line government agencies.

11 Steering Committee for the Review of Government Service Provision (SCRGSP), *Overcoming Indigenous Disadvantage – Key Indicators 2003*, Productivity Commission, Canberra, 2003, p v.



disadvantage diminishes all of Australia' and stated that 'it has to be admitted that decades of policy action have failed'.<sup>12</sup>

The situation in respect of Indigenous disadvantage has been noted at the international level. In 2000 the United Nations Committee on Economic Social and Cultural Rights (CESCR) expressed its:

concern that, despite the efforts and achievements of the State party [Australia], the indigenous populations of Australia continued to be at a comparative disadvantage in the enjoyment of economic, social and cultural rights, particularly in the field of employment, housing, health and education.<sup>13</sup>

In important respects things are not improving for Indigenous Australians. Gary Banks, on the release of the *Overcoming Indigenous Disadvantage: Key Indicators 2005*,<sup>14</sup> commented on the mixed results in the report and identified 'areas of regression'. These included: increases in Indigenous peoples as victims of violence, as subject to child protection notifications, and in regard to imprisonment rates, especially for women.<sup>15</sup>

Recent reports suggest that increases in diabetes amongst Indigenous peoples will have a devastating impact over time. For example, up to 30% of Torres Strait Islanders are affected by type 2 diabetes.<sup>16</sup> Statistics on the large Aboriginal community of Wadeye in the Northern Territory reflect a parlous situation, with a death rate four times higher than the rate for the Northern Territory, an average life expectancy of 46 years, a range of serious and endemic health problems, and a high percentage of children in the 0-5 age group who are stunted (20%), wasted (10%) and/ or underweight (21%).<sup>17</sup>

Whilst there is widespread agreement and concern about the state of Indigenous disadvantage measured against a range of economic and social indicators, there is less recognition that this situation reflects a profound failure to afford Indigenous Australians their full range of human rights. Australia's ongoing inability to secure decent living standards for its Indigenous citizens is not only a failure of domestic policy, it is also a failure to meet basic legal obligations arising from Australia's role as a responsible member of the international community.

There is a clear obligation on Australia, in terms of the requirements under international law and in particular under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR – ratified by Australia), to:

take steps ... to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means.<sup>18</sup>

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- 12 Henry, K., (Secretary of Treasury), *Managing Prosperity*, Address to the 2006 Social and Economic Outlook Conference, Melbourne, 2 November 2006.
  - 13 Committee on Economic, Social and Cultural Rights, *Concluding Observations: Australia 01/09/2000*, 1 September 2000, UN Doc E/C.12/1/add.50, paragraph 15.
  - 14 Steering Committee for the Review of Government Service Provision (SCRGSP), *Overcoming Indigenous Disadvantage – Key Indicators 2005*, Productivity Commission, Canberra, 2005.
  - 15 Banks, G., (Chairman of the Productivity Commission), *Indigenous disadvantage: are we making progress?* Address to the Committee for Economic Development in Australia (CEDA), 21 September 2005, pp 8-9.
  - 16 Diabetes Australia, *Rapid Increase in Diabetes Rates May Threaten Survival of Some Indigenous Groups*, Media Release, 13 November 2006.
  - 17 Taylor, J., *Social Indicators for Aboriginal Governance: Insights from the Thamarrur Region, Northern Territory*, Centre for Aboriginal Economic Policy Research (CAEPR), Research Monograph No. 24, 2004, p12.
  - 18 Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).



These rights are precisely the sorts of rights in which Indigenous Australians fare so poorly. They include the right to an adequate standard of living (which includes adequate housing) and the right to the highest attainable standards of physical and mental health. Further, the steps required to be taken under the Covenant must be *deliberate, concrete and targeted* towards ensuring the full realisation of rights and governments must demonstrate that they are progressively realising the enjoyment of rights.<sup>19</sup> This requires that service delivery occur within an overall strategy that includes *specific, time-bound and verifiable benchmarks and indicators*<sup>20</sup> to ensure that the enjoyment of rights improves over time.<sup>21</sup>

In Australia, this requires an integrated and purposeful approach to improving Indigenous living standards which will necessarily include improved access to mainstream services and a range of Indigenous specific programs to respond to particular circumstances. It also requires flexibility and sensibility to the cultural and social norms and aspirations of Indigenous peoples. This principle is well established in international law,<sup>22</sup> and it should be the very bedrock on which Australia's reconciliation process is built.

When considering Indigenous peoples' ability to exercise and enjoy their economic, social and cultural rights, the United Nations Committee on Economic Social and Cultural Rights has also provided guidance to governments about how to fulfil their legal obligations. The Committee has encouraged governments to:

- Prepare aggregate national statistics or estimates so that they have an accurate diagnosis and knowledge of the existing situation;
- Give special attention to 'any worse-off regions or areas and to any specific groups or subgroups which appear to be particularly vulnerable or disadvantaged';
- Engage in the elaboration of clearly stated and carefully targeted policies and develop and adopt a detailed plan of action for the progressive implementation of each of the rights contained in the Covenant;
- Facilitate public scrutiny of government policies with respect to economic, social and cultural rights, and encourage the involvement of the relevant sectors of civil society in the formulation, implementation and review of these policies;

19 Committee on Economic, Social and Cultural Rights, *General Comment 3: The nature of States parties obligations (art.2(1) of International Covenant on Economic, Social and Cultural Rights)*, 14 December 1990, UN Doc E/1991/23, para 2.

20 United Nations Development Programme (UNDP), *Human Development Report 2000 – Human rights and human development*, UNDP, New York, 2000, available online at <http://hdr.undp.org/reports/global/2000/en/> accessed 14 February 2007.

21 For an overview of these principles in the Australian context see further: Aboriginal and Torres Strait Islander Social Justice Commissioner, 'Achieving Aboriginal and Torres Strait Islander health equality within a generation', *Social Justice Report 2005*, Chapter 2, HREOC, Sydney, 2005 and Aboriginal and Torres Strait Islander Social Justice Commissioner, 'Measuring Indigenous disadvantage', *Social Justice Report 2002*, Chapter 4, HREOC, Sydney, 2002.

22 See for example, *International Covenant on Civil and Political Rights*, Article 27; Committee on Economic, Social and Cultural Rights, *General comment 4 (1991): The Right to adequate housing (art.11(1) of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc E/1992/23, 13/12/91, 13 December 1991, para 8; Committee on Economic, Social and Cultural Rights, *General comment 14 (2000): The Right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc E/C.12/2000/4, 11 August 2000, para 27.



- Identify specific benchmarks or goals against which their performance in a given area can be assessed; and
- Report in detail on the factors and difficulties that inhibit progressive realisation of the full range of economic, social and cultural rights so that more appropriate policies can be put in place.<sup>23</sup>

There have also been a number of developments at the international level in recent years which have seen a clearer understanding emerge of the relationship between human rights and development and poverty eradication. Past Social Justice and Native Title Reports have highlighted these developments.<sup>24</sup>

One of the most significant outcomes of this focus on integrating human rights and development and poverty eradication activities has been the agreement among the agencies of the United Nations of the *Common Understanding of a Human-Rights Based Approach to Development Cooperation*.<sup>25</sup>

This document outlines the human rights principles that are common to the policy and practice of the UN bodies. The *Common Understanding* states that these principles are intended to guide programming across a range of service delivery areas.<sup>26</sup> They are of importance in addressing the accessibility of mainstream services.

The *Common Understanding* has three principles. Namely, that:

- All programmes, policies and technical assistance should further the realisation of human rights;
- Human rights standards guide all development cooperation and all phases of programming; and
- Development cooperation contributes to the development of the capacity of 'duty-bearers' to meet their obligations and of 'rights-holders' to claim their rights.<sup>27</sup>

The *Common Understanding* also identifies the following elements that are 'necessary, specific, and unique to a human rights-based approach' to development.<sup>28</sup>

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23 Committee on Economic, Social and Cultural Rights, *General Comment 1: Reporting by States parties*, 24 February 1989, UN Doc E/1989/22, paras 3, 4, 5, 6 and 8.

24 See in particular: Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2000; Social Justice Report 2002; Social Justice Report 2005*; and *Native Title Report 2003*, HREOC, Sydney.

25 United Nations, *The Human Rights-Based Approach to Development Cooperation: Towards a Common Understanding Among the UN Agencies*, United Nations, New York 2003, available online at [www.unescobkk.org/fileadmin/user\\_upload/appeal/human\\_rights/UN\\_Common\\_understanding\\_RBA.pdf](http://www.unescobkk.org/fileadmin/user_upload/appeal/human_rights/UN_Common_understanding_RBA.pdf) accessed 14 February 2007.

26 Such as education, governance, nutrition, water and sanitation, HIV/AIDS, employment and labour relations, and social and economic security.

27 United Nations, *The Human Rights-Based Approach to Development Cooperation: Towards a Common Understanding Among the UN Agencies*, United Nations, New York 2003, available online at [www.unescobkk.org/fileadmin/user\\_upload/appeal/human\\_rights/UN\\_Common\\_understanding\\_RBA.pdf](http://www.unescobkk.org/fileadmin/user_upload/appeal/human_rights/UN_Common_understanding_RBA.pdf) accessed 14 February 2007.

28 United Nations, *The Human Rights-Based Approach to Development Cooperation: Towards a Common Understanding Among the UN Agencies*, United Nations, New York 2003, available online at [www.unescobkk.org/fileadmin/user\\_upload/appeal/human\\_rights/UN\\_Common\\_understanding\\_RBA.pdf](http://www.unescobkk.org/fileadmin/user_upload/appeal/human_rights/UN_Common_understanding_RBA.pdf) accessed 14 February 2007.



### Text Box 1: Elements of a human rights based approach to development

- Assessment and analysis identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realisation of rights.
- Programs assess the capacity of rights-holders to claim their rights and of duty-bearers to fulfill their obligations. They then develop strategies to build these capacities.
- Programs monitor and evaluate both outcomes and processes guided by human rights standards and principles.
- Programming is informed by the recommendations of international human rights bodies and mechanisms.

Other elements of good programming practices that are also essential under a human rights based approach include that:

- (i) People are recognised as key actors in their own development, rather than passive recipients of commodities and services.
- (ii) Participation is both a means and a goal.
- (iii) Strategies are empowering, not disempowering.
- (iv) Both outcomes and processes are monitored and evaluated.
- (v) Analysis includes all stakeholders.
- (vi) Programs focus on marginalised, disadvantaged, and excluded groups.
- (vii) The development process is locally owned.
- (viii) Programs aim to reduce disparity.
- (ix) Both top-down and bottom-up approaches are used in synergy.
- (x) Situation analysis is used to identify immediate, underlying, and basic causes of development problems.
- (xi) Measurable goals and targets are important in programming.
- (xii) Strategic partnerships are developed and sustained.
- (xiii) Programs support accountability to all stakeholders.

These principles provide useful guidance for incorporating participatory development principles into domestic policies and programs relating to Aboriginal and Torres Strait Islander policy, including, to improve accessibility of mainstream services.

## The challenge of improving Indigenous access to mainstream services

Most expenditure by Australian governments on the provision of services to Indigenous peoples is made through mainstream services generally available to all citizens. However, the Commonwealth Grants Commission's *Report on Indigenous Funding 2001* found that Indigenous peoples do not access these mainstream services on an equitable basis:

It is clear from all available evidence that mainstream services do not meet the needs of Indigenous people to the same extent as they meet the needs of non-Indigenous





people. In general, Indigenous people experience greater disadvantage and have greater needs than non-Indigenous people and, for geographic, economic and cultural reasons, mainstream services are less accessible to them.<sup>29</sup>

The report noted that despite the physical accessibility of services in urban areas, there was a range of factors constraining access (see below). Although Indigenous peoples in rural and remote areas face similar barriers to urban Indigenous peoples, they also face major physical access difficulties because mainstream services are often either not provided, or physical access to them is restricted by distance.<sup>30</sup> There can also be problems in attracting and retaining experienced and trained staff to work in rural and remote areas or specifically with Indigenous peoples, regardless of location.

In response to this situation, the report identified as a principle that should underlie service delivery:

Recognition of the *critical importance of effective access* to mainstream programs and services, and *clear actions to identify and address barriers* to access.<sup>31</sup> [emphasis added]

The ramifications of problems of accessibility to services were examined in the *Social Justice Report 2002*.<sup>32</sup> By way of example, that report noted that Indigenous peoples' access to health services needs to be viewed widely to include not only an evaluation of the specific health service in question, but the broader health context and underlying determinants of people's overall wellbeing. The work of the United Nations Committee on Economic, Social and Cultural Rights (CESCR) is particularly relevant here as this body broadly interprets the right to health as contained in the Covenant as:

an inclusive right extending not only to timely and appropriate health care but also to the *underlying determinants* of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health. A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels.<sup>33</sup> [emphasis added]

The right to health has been elaborated in international law to give it real potency to improve health. This broad perspective and considered and elaborated approach to improving access to mainstream programs needs to be brought to bear in respect of the objective of 'harnessing the mainstream' under the new arrangements for Indigenous affairs in Australia.

29 Commonwealth Grants Commission, *Report on Indigenous Funding 2001*, Canberra 2001, p 43.

30 Commonwealth Grants Commission, *Report on Indigenous Funding 2001*, Canberra 2001, p 62.

31 Commonwealth Grants Commission, *Report on Indigenous Funding 2001*, Canberra 2001, p101.

32 Aboriginal and Torres Strait Islander Commissioner, *Social Justice Report 2002*, HREOC, Sydney, 2003.

33 United Nations Committee on Economic, Social and Cultural Rights, *General comment 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc E/C.12/2000/4, 11 August 2000, para 11. The full document, including references, is available online at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/40d009901358b0e2c1256915005090be?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?OpenDocument) accessed 14 February 2007.



There is a further dimension to consider when the health service in question is to be accessed by Indigenous peoples. The *Social Justice Report 2002* also observed that:

Of particular note is the inclusion of a paragraph [in CESCR General Comment 14] specifically relating this right to Indigenous peoples.<sup>34</sup> The paragraph emphasises the need for health services to be *culturally appropriate* and for *full and effective participation* by Indigenous peoples. The Committee notes that in Indigenous communities the health of the individual is often linked to the health of the society as a whole and has *a collective dimension*. As with other rights protected by the Covenant (including the right to education), there is an emphasis on the need to develop health strategies that should identify appropriate right to health indicators and benchmarks. .... Having identified appropriate right to health indicators, states should set appropriate benchmarks to each indicator, for use in monitoring and reporting.<sup>35</sup> [emphasis added]

The relevance of accessing mainstream services has been highlighted under the new arrangements for service delivery at the federal government level. The new arrangements emphasise whole of government service delivery and improved coordination and integration. Whole of government (or 'joined up' or 'connected' government) is a policy imperative that increasingly underpins the provision of government services across the board, including Indigenous services. Dr Shergold, Secretary of the Department of Prime Minister and Cabinet, has made clear that a whole of government approach is a high priority for the Australian Public Service.<sup>36</sup> 'Harnessing the mainstream' is a central plank in the 'whole of government' approach to service delivery.

The Australian government has also worked with state and territory governments to achieve better whole of government coordination between levels of government. The Council of Australian Governments (COAG) has made significant commitments to overcoming Indigenous disadvantage, including through the *National Framework of Principles for Delivering Services to Indigenous Australians* as agreed in June 2004. These principles include:

address sharing responsibility, harnessing the mainstream, streamlining service delivery, establishing transparency and accountability, developing a learning framework and focussing on priority areas.<sup>37</sup>

COAG has identified the parameters of the objective of 'harnessing the mainstream' as follows.

34 United Nations Committee on Economic, Social and Cultural Rights, *General comment 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc E/C.12/2000/4, 11 August 2000, para 27. The full document, including references, is available online at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/40d009901358b0e2c1256915005090be?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?Opendocument) accessed 14 February 2007.

35 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2002*, HREOC, Sydney, 2002, p98.

36 Shergold, P., (Secretary, Department of Prime Minister and Cabinet), *Connecting Government: Whole-of-Government Responses to Australia's Priority Challenges*, Speech at launch of the publication of the same name, 20 April 2004, available online at [http://www.dpmc.gov.au/speeches/shergold/connecting\\_government\\_2004-04-20.cfm](http://www.dpmc.gov.au/speeches/shergold/connecting_government_2004-04-20.cfm) accessed 18 January 2007.

37 Council of Australian Governments (COAG), *Communiqué: Council of Australian Governments' Meeting 25 June 2004*, available online at <http://www.coag.gov.au/meetings/250604/#formats> accessed 18 January 2007.



### Text Box 2: COAG Principles for 'Harnessing the Mainstream'

Ensuring that Indigenous-specific and mainstream programs 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.<sup>38</sup>

Increased access to mainstream programs is closely linked with improved integration and coordination of service delivery to Indigenous peoples and communities. In fact, these objectives are complementary, as one of the reasons for poor access is often perceived to be uncoordinated and complex service delivery arrangements. As I noted in my *Social Justice Report 2004*, the new arrangements for Indigenous affairs mean that, to a significant extent, at the federal level the administration of mainstream programs now sits alongside Indigenous-specific programs in the Indigenous Coordination Centres established to deliver Indigenous programs on a whole of government basis. As I emphasised:

This is a significant opportunity to improve the accessibility of mainstream programs for Indigenous people and communities so as to better meet their needs.<sup>39</sup>

The new relationship between Indigenous-specific and general programs *within* portfolios rather than with *external* agencies, such as ATSIC, can lead to greater sensitivity in respect of actual *mainstream* program delivery. For example, delivery of mainstream services by an agency should now benefit from association with the Indigenous-specific services also being delivered. In this setting mainstream administrators will have a greater opportunity to learn about appropriate and effective Indigenous service delivery and be sensitised to particular difficulties confronting Indigenous peoples in their relations with government service providers.

As well, mainstreaming of ATSIC services under the new arrangements has given these issues greater cogency given that virtually all Indigenous funding now comes through mainstream agencies, whether as Indigenous-specific or as mainstream programs.

38 Council of Australian Governments, *National Framework of Principles for Delivering Services to Indigenous Australians*, 25 June 2004, available at [http://www.coag.gov.au/meetings/250604/attachments\\_b.rtf](http://www.coag.gov.au/meetings/250604/attachments_b.rtf) accessed 18 January 2007.

39 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, HREOC, Sydney, 2004, p127.



This can, however, be problematic. As Gray and Sanders have noted, 'The relationship between Indigenous-specific programs and general programs within a portfolio area is complex.'<sup>40</sup> The problem is that the tendency to *substitute* rather than to *complement and supplement* programs can arise, even *within* portfolios – so that the burden may yet again be left to the Indigenous-specific programs, and the mainstream programs step back from the task. This **substitution effect** is explained in Text Box 3 below.

### Text Box 3: The substitution effect

Besides the obvious disadvantage to Indigenous peoples resulting from barriers to access to mainstream services, a further problematic effect has been a tendency for Indigenous-specific programs to *substitute* for mainstream programs rather than to *supplement* them.

That is, mainstream service delivery for Indigenous peoples is simply replaced by Indigenous-specific programs, with no net increase in funds or resources being made available to address Indigenous disadvantage. This substitution effect also means that some agencies can put off coming to grips with their responsibilities to all Australians, including Indigenous Australians, and the need to develop the necessary expertise, sensitivity and flexibility for effective delivery of mainstream services to Indigenous peoples.

This was a particular problem for ATSIC, which was often left to fill the gap where mainstream agencies did not adequately meet their normal responsibilities to Indigenous peoples.

I appreciate that various high-level arrangements have been put in place to try to avoid such back-sliding.<sup>41</sup> Nevertheless, over time, there is a risk. As Gray and Sanders comment:

Here then is the conundrum of Indigenous-specific mechanisms within government administration. They run the danger of letting general mechanisms avoid responsibility for Indigenous people, while simultaneously holding out the hope of sensitising those general mechanisms to Indigenous difference.<sup>42</sup>

The Secretaries' Group on Indigenous Affairs has delineated some of the challenges:

The many challenges in this area include ensuring that Indigenous-specific and mainstream programs are complementary, reducing the red tape associated

40 Gray, W. and Sanders, W.G., *Views for the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs*, Centre for Aboriginal Economic Policy Research (CAEPR), Discussion Paper No 282/2006, p23.

41 Structural arrangements designed to keep priority on reducing Indigenous disadvantage include the Ministerial Taskforce on Indigenous Affairs and the Secretaries' Group on Indigenous Affairs.

42 Gray, W. and Sanders, W.G., *Views for the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs*, Centre for Aboriginal Economic Policy Research (CAEPR), Discussion Paper no 282/2006, p24.



with these services, and making mainstream services attractive to Indigenous people.<sup>43</sup>

These are important and difficult challenges for successful implementation of the new arrangements. The difficulties in the past in achieving objectives such as improving access to mainstream service provision provide a salutary lesson. Such difficulties were neither the making of ATSIC nor its predecessors, but instead reflect entrenched problems in responding to Indigenous disadvantage. One lesson is that, whilst ever Indigenous Australians retain distinctive cultural and societal values and practices, governments need to understand, respect and respond to such difference. They also need to value Indigenous participation in designing and implementing service delivery. Otherwise the difficulties between the 'mainstream' service providers and their Indigenous clients will worsen and inevitably, Indigenous people will bear the brunt of the failure.

I commented in my previous *Social Justice Report* that removing the barriers to accessing services is particularly challenging, and progress has been slow.<sup>44</sup> I believe this remains the case, and if anything this objective of the new arrangements has tended to slip from view. I also noted the absence of mainstream data, the lack of linkages between the *Overcoming Indigenous Disadvantage* reporting framework and mainstream programs, the absence of appropriate monitoring and evaluation processes, and the lack of mechanisms for Indigenous engagement and participation in designing and delivering services.<sup>45</sup> There remains a need for effective and credible evaluation of progress towards achieving the objective of 'harnessing the mainstream'.

## The situation of urban Indigenous peoples – a particular concern

The federal government has made remote communities its priority for Indigenous-specific funding under the new arrangements. This is on the basis that need is greatest in remote communities, and on the understanding that mainstream services are generally available to urban-based Indigenous peoples.

This emphasis on remote communities is reflected in discussions at the November 2006 Senate Estimates hearings of the Senate Standing Committee on Community Affairs in the context of the 'strategic interventions' approach now being implemented in Indigenous affairs (see further below). In response to a question, the Associate Secretary of the Department of Families, Community Services and Indigenous Affairs (FaCSIA) advised that the great majority of these interventions are focused on remote locations that have been neglected, or where the needs are greatest. This reflects the Government's general approach:

43 Secretaries' Group on Indigenous Affairs, *Secretaries' Group Annual Report on Indigenous Affairs 2004-05*, Canberra, 2005, p13, available online at [http://www.oipc.gov.au/performance\\_reporting/sec\\_group/](http://www.oipc.gov.au/performance_reporting/sec_group/) accessed 18 January 2007.

44 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p178.

45 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p178.



*Mr Gibbons*—There is an Indigenous specific cluster [within FaCSIA] and the resources of that program cluster are focused more on remote Australia than anywhere else—not exclusively, but the burden of our investment is going to be on the backlog in housing and infrastructure in remote Australia. *That is a clear priority of the government.*<sup>46</sup> [emphasis added]

The implicit assumption is that to a considerable extent the needs of urban Indigenous peoples (including people living in regional centres) can be met by mainstream programs because:

- services are already in place to serve the wider community, unlike more remote areas where services may have to be provided specifically to meet the needs of Indigenous communities; and
- many Indigenous peoples in urban areas follow a lifestyle quite similar to the wider society, and so it may appear that these people are better placed to utilise mainstream services.

But the diversity of situations of Indigenous peoples in urban and regional areas makes it unrealistic to over-generalise. The needs of Indigenous peoples living on Special Purpose Leases on the outskirts of Alice Springs, Darwin or Katherine in the Northern Territory will be quite different to those of people living in the suburbs of Sydney or Melbourne or housing estates in regional centres such as Dubbo or Geraldton.

The Commonwealth Grants Commission has pointed out that:

Despite the physical accessibility of services in urban areas, a range of factors clearly constrains access of Indigenous people to them. The result is that mainstream services are not meeting the needs of Indigenous people equitably.<sup>47</sup>

There are a number of reasons for this relative under-utilisation of mainstream services, which can be generally considered under the term of ‘barriers to access’. This under-utilisation of services undoubtedly is a contributing factor to the relative disadvantage of the Indigenous population, including the disadvantage experienced by Indigenous peoples living in urban areas. The Commonwealth Grants Commission listed the following barriers to access in urban areas.

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46 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Standing Committee on Community Affairs Estimates, Canberra, 2 November 2006, pCA21, available online at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.

47 Commonwealth Grants Commission, *Report on Indigenous Funding 2001*, Canberra 2001, p61.



#### **Text Box 4: Barriers to access to services for Indigenous peoples in urban areas**

- (i) Some mainstream services are planned and delivered so as to meet the requirements of the most common users, and do not allow sufficiently for the extreme disadvantage and special needs of Indigenous people;
- (ii) Some requirements for accessing services do not take sufficient account of the lifestyle of Indigenous people;
- (iii) In general, Indigenous people have very low incomes and little accumulated wealth. Consequently, financial barriers constrain access to some services;
- (iv) People living in the outer suburban fringes of large urban centres, where public transport infrastructure is more limited, can experience difficulties in gaining physical access to services;
- (v) Workforce issues experienced by service providers can restrict Indigenous people's access to services. Staff are not always trained to work in a cross-cultural context or where they experience the complex multiple problems Indigenous people often face. The relatively low number of Indigenous staff in some services, especially in large urban areas, adds to Indigenous insecurities in using mainstream services;
- (vi) Legacies of history and unpleasant previous experiences with mainstream services can reduce Indigenous use of facilities;
- (vii) Some mainstream services are delivered in ways that make Indigenous people feel uncomfortable, that is, services are not culturally appropriate or culturally secure; and
- (viii) There may be poor links between complementary services, for example between training institutions and employment facilities, or between primary health providers and hospitals or ancillary health services.<sup>48</sup>

Cultural practices and social arrangements are also important determinants of the lower uptake, relative to the wider population, of mainstream services by Indigenous peoples in urban areas.

The persistence of Indigenous difference, and evolving Indigenous norms and customs, including in urban areas, results in mainstream services often being unsuitable or unworkable. For example, in urban and regional areas the mainstream criminal justice system, with relatively high rates of Indigenous offending and incarceration, is often less effective than it might be in deterring criminal behaviour and in providing effective rehabilitation. Consequently a number of initiatives, including elder participation in judicial processes and circle sentencing have been developed. This has been a positive development in aligning mainstream services with Indigenous needs and values. As my predecessor, Dr Jonas, pointed out:

48 Commonwealth Grants Commission, *Report on Indigenous Funding 2001*, Canberra 2001, p61-62.



The fact that Indigenous involvement in sentencing processes is taking place in urban areas in the most settled eastern sea-board states, such as through the Koori, Ngunga and Murri Courts and circle sentencing, demonstrates the vitality and evolving nature of [Indigenous] customary law.<sup>49</sup>

As well, past bad experiences with mainstream service providers, and the confidence-sapping effects of a lifetime led in the shadow of racism, can all be real barriers to accessing services.<sup>50</sup>

Thus, as I pointed out in the *Social Justice Report 2004*, the emphasis in the new arrangements on remote discrete Indigenous communities poses difficulties for Indigenous peoples in urban areas.<sup>51</sup> Urban Indigenous peoples may in effect be abandoned to mainstream services, without adequately addressing issues of access, flexibility and relevance.

The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA) considered some of these problems in an inquiry into the needs of urban dwelling Aboriginal and Torres Strait Islander peoples in 2001. In respect of accessing mainstream services, it noted that:

The evidence suggests that Indigenous people in urban areas tend not to use mainstream services and choose instead to use Indigenous community organisations as either intermediaries with mainstream agencies or as replacement service providers, or not to use any services at all [emphasis added].<sup>52</sup>

Or, as Shelley Reys, an Indigenous consultant and a Board member of Reconciliation Australia, has observed:

Indigenous people in Sydney are expected to access mainstream services that often don't meet their needs.<sup>53</sup>

Indeed, HORSCATSIA's Report set out the challenges and parameters of service delivery to urban-based Indigenous peoples as follows:

In urban areas at least, the urgent priority should be on meeting the needs of Indigenous people through better access to existing mainstream services. This means that mainstream services need to be appropriately designed and delivered in culturally sensitive ways that reflect regional differences and cultural diversity. It also means that Aboriginal and Torres Strait Islander peoples need to be involved in program design and service delivery. It may be necessary to invest in parallel Indigenous specific structures or services where mainstream services are inadequate or non-existent.

49 Jonas, W., (previous Aboriginal and Torres Strait Islander Social Justice Commissioner), *The Recognition of Aboriginal Customary Law*, Speech to the HREOC and International Lawyers Association (Australian Division) Workshop on 'Recognising Aboriginal and Torres Strait Islander customary law – international and domestic law implications', Sydney, 20 November 2003, available online at [http://www.humanrights.gov.au/speeches/social\\_justice/recognition\\_customary\\_law.html](http://www.humanrights.gov.au/speeches/social_justice/recognition_customary_law.html) accessed 18 January 2007.

50 See, for example, report on work of the Winnunga Nimmityjah Heath Service in Canberra and its CEO Julie Tongs, 'Tongs draws on sobering past to guide others down the right path', *Canberra Times*, 18 November 2006, Forum B3.

51 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, HREOC, Sydney, 2004, p117.

52 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA), *"We Can Do It!" The Report of the Inquiry into the Needs of Urban Dwelling Aboriginal and Torres Strait Islander Peoples*, Commonwealth of Australia, Canberra 2001 at 3.3.

53 Reys, S. (Managing Director, Arrilla – Indigenous Consultants and Services and Director, Reconciliation Australia), quoted in *The Weekend Australian*, November 4-5, 2004 – 'The Nation' section.





The Committee acknowledges that there are many mainstream government services that Indigenous people find currently neither easy to use nor appropriate to their circumstances. However, this is not a reason for doing nothing. Appropriate plans need to be developed to overcome these obstacles. They should not be perpetuated.<sup>54</sup>

This is the nub of the situation. These comments by the HORSCATSIA provide a template for the provision of services to Indigenous peoples in urban areas and regional centres. The question that needs to be considered is whether the new arrangements for Indigenous affairs are responsive to the needs of Indigenous peoples in urban areas. Does the current emphasis on SRAs and strategic interventions in discrete and remote communities mean that for urban Indigenous peoples the unsatisfactory state of affairs regarding access to mainstream services will be perpetuated?

The Office of Indigenous Policy Coordination has identified improving mainstream access as a critical component of the new arrangements if the government is to improve service delivery to Indigenous peoples in urban locations:

the Government recognises that Indigenous disadvantage will not be addressed through Indigenous-specific programs and services alone. It is important, particularly in an urban context where the majority of mainstream infrastructure is already present, to 'harness the mainstream'... In urban and regional environments, where the majority of the Indigenous population lives, physical access to mainstream services is less likely to be the key issue. However, mainstream services have not performed as well as they should in meeting the needs of Indigenous people in urban areas. Therefore, the Australian Government is also working to harness mainstream services, to improve access to, take-up of and outcomes from these services for Indigenous Australians. This is also an issue being raised in various bilateral negotiations with the States.<sup>55</sup>

In correspondence provided for this year's report, as well as discussions with senior officials in OIPC, the government has indicated that it continues to struggle with the challenge of 'harnessing the mainstream' among Indigenous peoples in urban communities:

Our analysis shows that harnessing the mainstream is closely connected to the effective provision of services to urban Indigenous people. Feedback from those working on the ground as well as nationally... reveals that there are many success factors and challenges common to both urban and mainstreaming issues. These include:

- Improved mechanisms/incentives are needed in mainstream services to break down barriers to access and to ensure that use by Indigenous people is in line with need and that outcomes achieved are comparable to other Australians in like circumstances;
- Further information is needed on Indigenous mobility and service usage in urban areas;

54 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA), *"We Can Do It!" The Report of the Inquiry into the Needs of Urban Dwelling Aboriginal and Torres Strait Islander Peoples*, Commonwealth of Australia, Canberra 2001, paragraphs 1.36 and 1.37.1.

55 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p179.



- The Indigenous population in urban areas can be diffuse and is not always readily identified as cohesive or 'community' groupings for the purpose of targeting services and collaboration;
- Cooperative action by governments can be hampered by inflexibility resulting from the funding, structure and operation of agencies and programs; and
- The necessary changes and improvements need a long term approach.

These success factors and challenges will be further examined during ongoing policy developments on improving urban and mainstream services.<sup>56</sup>

## **A case study: withdrawal of CDEP from urban and certain regional centres and abolition of Indigenous Employment Centres**

There are two aspects to improving accessibility of mainstream services for Indigenous peoples. The first is improving such access through whole of government coordination and the machinery of the new arrangements (as discussed throughout this chapter). The second is the efforts of individual mainstream departments to build better connections between the mainstream and Indigenous specific services they deliver on a day-to-day basis.

The Department of Employment and Workplace Relations (DEWR) is one such mainstream agency that has taken on a significant role in Indigenous affairs as a result of the new arrangements. This owes much to the fact that tackling Indigenous unemployment and underemployment are at the core of the federal government's *Indigenous Economic Development Strategy (IEDS)*, which was launched in November 2005.<sup>57</sup>

The goal of the IEDS is to support Indigenous Australians achieve economic independence by reducing their dependence on passive welfare. The strategy takes a whole-of-government approach to removing barriers to Indigenous economic independence, drawing together the range of mainstream and Indigenous-specific programs and services, and linking them into support offered through the corporate, community and philanthropic sectors.

Under this strategy, the 'key ingredients for economic independence' are Indigenous employment, home ownership and business development.<sup>58</sup> The twelve initiatives

56 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of Social Justice Report 2006*, 22 December 2005, pp7-8.

57 The IEDS builds upon the government's Indigenous Employment Policy (IEP). The IEP had been implemented progressively since 1999 to address continuing high unemployment rates among Indigenous Australians and a demographic profile which indicated that the labour market disadvantages of Indigenous Australians would, in all likelihood, increase further unless special efforts were made. The IEP focused on creating opportunities for Indigenous peoples in the private sector and aimed to: improve outcomes for Indigenous job seekers through Job Network; help Community Development Employment Project (CDEP) sponsors to place their work-ready participants in open (non-CDEP) employment; and support the development and expansion of Indigenous small business. See Australian Government, *Indigenous Employment Policy*, available online at <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/IndigenousProgs/IndigenousEmploymentPolicyIEP.htm> accessed 12 February 2007.

58 Australian Government, *Indigenous Economic Development Strategy: Achieving Indigenous Economic Independence, November 2005*, available online at [http://www.workplace.gov.au/NR/rdonlyres/B7206570-9BFD-4403-B4A3-6649065FAE5A/0/IEDStrategyBooklet\\_revised\\_FINAL.pdf](http://www.workplace.gov.au/NR/rdonlyres/B7206570-9BFD-4403-B4A3-6649065FAE5A/0/IEDStrategyBooklet_revised_FINAL.pdf) accessed 8 February 2007.



in the IEDS focus on two main areas: work and asset/ wealth management. The work initiatives include CDEP reform; local jobs for local people; improved employment service performance; and targeted industry strategies. The asset/ wealth management initiatives include increased Indigenous home ownership and economic development on Indigenous land.<sup>59</sup>

DEWR's prominence in Indigenous affairs is also related to the fact it is responsible for the largest Indigenous specific program, the *Community Development Employment Project (CDEP)*. The CDEP scheme was transferred from ATSIC to DEWR in July 2004, and underwent significant changes to align Indigenous specific services with mainstream services which I commented on in the *Social Justice Report 2005*.<sup>60</sup> Now one year on, we are faced with even more sweeping changes.

The CDEP scheme plays a central role in the economic and community life of many discrete Indigenous communities and rural towns with a significant Indigenous population.<sup>61</sup> As I reported in the *Social Justice Report 2005*:

At 30 June 2004, there were over 36,000 CDEP participants and 220 CDEP organisations. In 2002 the CDEP scheme accounted for over one-quarter of the total employment of Indigenous Australians, with 13 percent of the working-age population being employed in the CDEP scheme. ... The majority of CDEP participants (62%) were in very remote areas, 11 percent were in remote areas, 11 percent in outer regional areas, 9 percent in major cities and 7 percent in the inner regional areas.<sup>62</sup>

CDEP has been a contentious program since its inception in the late 1970s. Interestingly, it was an attempt to address the perceived negative effects that could flow from providing remote communities with social service benefits. There was a concern even then, that this 'passive welfare' would have harmful personal and social consequences.

Over its lifespan, the CDEP scheme has been criticised by Indigenous peoples and governments for a range of reasons, including that it:

- Is an alternative form of employment for Indigenous peoples, even where there are other jobs available in the local labour market;
- Is a destination or dead-end, rather than a pathway to 'real' and sustainable employment;
- It lets governments at all levels get away with not providing essential services to Indigenous communities;

59 Australian Government, *Indigenous Economic Development Strategy: Achieving Indigenous Economic Independence, November 2005*, available online at [http://www.workplace.gov.au/NR/rdonlyres/B7206570-9BFD-4403-B4A3-6649065FAE5A/0/IEDStrategyBooklet\\_revised\\_FINAL.pdf](http://www.workplace.gov.au/NR/rdonlyres/B7206570-9BFD-4403-B4A3-6649065FAE5A/0/IEDStrategyBooklet_revised_FINAL.pdf) accessed 8 February 2007.

60 These reforms included an introduction of time limits for participation in CDEP contracts and an explicit focus on participants finding long-term jobs in the mainstream market. Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p180-192.

61 CDEP participants are paid a wage rather than receiving unemployment payments such as Newstart and Youth Allowance. Participants in remote areas receive a slightly higher wage than those in non-remote areas. CDEP organisations are paid 'on-costs' to cover the costs of running CDEP activities. Places in CDEP are capped and demand has always outstripped the available places.

62 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p180-181.



- It devalues the work done by CDEP participants because a 'real job' would earn a 'real wage;' and
- CDEP participants do not have access to superannuation, long-service leave and union membership.

For all its criticisms, it is important to acknowledge that the CDEP scheme has enabled many Indigenous communities to develop valuable community services which address key community needs. Many of these services are now regarded as 'essential services' in Indigenous communities and it is questionable that commercial enterprises could either afford to provide them, or deliver them in a culturally appropriate manner. Examples include: night patrol services; childcare centres; cultural and natural heritage programs; and garbage services.

The CDEP scheme has also contributed to the development of Indigenous businesses, entrepreneurship and leadership in some communities. CDEPs have been able to increase the employment prospects of many participants through the delivery of accredited vocational training courses, paid work experience, personal support and literacy/numeracy skills.<sup>63</sup>

Initially CDEP was based on community development with projects typically ranging from housing and road maintenance, to artefact production and horticultural enterprises. There was a strong emphasis on projects that positively contributed to community coherence and cultural integrity. There was also an emphasis on boosting the number of CDEP participants and completed projects.

However, reforms in recent years have shifted the focus towards long-term employment outside the CDEP scheme. Increasingly CDEP organisations are required to make links with a range of government programs aimed at getting Indigenous peoples into mainstream employment or developing Indigenous business opportunities.

The government's introduction of Indigenous Employment Centres (IECs) in recent years is indicative of the re-orientation of the CDEP scheme towards mainstream employment outcomes. From 2002, the government encouraged the establishment of IECs by CDEPs located in areas with good employment opportunities. The purpose of these centres was to assist more CDEP participants to move off CDEP into long-term employment outside the CDEP scheme. IECs would tailor help for individual CDEP participants to get them job ready, support them while they are in their chosen job, and provide a pathway to employment that has strong connections with the local community. IECs continued to be established in a total of 43 locations across Australia until 2006.<sup>64</sup>

On 6 November 2006 the Minister for Employment and Workplace Relations released an Indigenous employment discussion paper: *Indigenous Potential meets*

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63 Unpublished Job Futures response to government discussion paper: *Indigenous Potential Meets Economic Opportunity*, November 2006, p2. Response provided by Job Futures to the Aboriginal and Torres Strait Islander Social Justice Commissioner.

64 Australian Government, Indigenous Employment Centres, Employment and workplace services for Australians website, available online at <http://www.workplace.gov.au/workplace/Category/Schemes/Initiatives/IndigenousProgs/IndigenousEmploymentCentres.htm> accessed 9 February 2007.



*Economic Opportunity*.<sup>65</sup> It proposes 'a new model of employment services' for Indigenous Australians in urban and major regional centres.

The discussion paper notes major achievements of the CDEP reform process, which it credits to the introduction of the IECs, including:

- 3,704 Indigenous people moved out of CDEP and into employment in the 2005-06 financial year, an increase of 135 per cent on the 2004-05 financial year;
- In the three months to end September 2006, 1,482 CDEP participants were placed into jobs outside of CDEP – more than double the number in the same period last year;
- Over 20 businesses were progressed through CDEP during 2005-06. An additional 52 were identified and are progressing;
- The CDEP "No work No pay" rule is being more strictly enforced with participants now required to sign an acknowledgement form to ensure they are aware of the rule; and
- A more competitive funding process ensuring better value for money from CDEP.<sup>66</sup>

At the same time, the discussion paper acknowledges that only 5 percent of the people moving through CDEP in 2005-06 were recorded as 'achieving employment off CDEP'.<sup>67</sup> In contrast, Job Network ('Australia's largest and most effective program in finding jobs for Indigenous people'<sup>68</sup>) placed over 45,200 Indigenous job seekers into jobs in a similar twelve month timeframe.<sup>69</sup> It is this apparent success of a mainstream service provider in placing Indigenous job seekers in employment that appears to be driving the government's latest round of CDEP changes.

Another reason for the changes is that 'outcomes from CDEP appear to be growing faster in remote areas than in urban areas', and 'a new approach is required to improve performance, particularly in urban and major regional centres with strong labour markets'.<sup>70</sup> This 'new approach' will include the abolition of CDEPs and IECs in urban and major regional centres, as well as a greater focus on placement directly into jobs through 'employer-focused job brokerage'. As the government's discussion paper elaborates:

65 Andrews, K., (Minister for Employment and Workplace Relations), *Indigenous Employment Discussion Paper Released*, Media Release, 6 November 2006, KA303/06.

66 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p5, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.

67 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p7, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.

68 Department of Employment and Workplace Relations, *CDEP Guidelines 2005-06: Building on Success*, p.7, available at [http://www.workplace.gov.au/NR/rdonlyres/DA6EA99F-EB21-4C90-810F-405D3AC49A51/0/CDEP\\_Guidelines2005\\_06.pdf](http://www.workplace.gov.au/NR/rdonlyres/DA6EA99F-EB21-4C90-810F-405D3AC49A51/0/CDEP_Guidelines2005_06.pdf) accessed 13 February 2007.

69 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p6, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007. The timeframe was Aug 2005 – August 2006, and represented a 68 percent increase over two years.

70 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p7, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.



To make the most of strong labour markets in urban and major regional centres, the Australian Government proposes to further *increase the focus on employer demand* and placement directly into jobs. This would mean that in these locations, CDEP and IEC activities would cease and funding would be redirected to an enhanced STEP brokerage service from 1 July 2007. [emphasis added]

The IEC model, which was designed to bridge the gap between CDEP and Job Network, is no longer necessary given the improved performance of CDEP service providers and Job Network members. Funding for IECs across Australia would cease on 30 June 2007. CDEP would continue to operate for eligible people in remote locations and regional location with weaker labour markets.<sup>71</sup> ... This would affect about 40 of the 210 current CDEP service providers and about 7,000 CDEP places out of around 35,000. All IECs across Australia would cease on 30 June 2007.<sup>72</sup> [emphasis added]

The new 'brokerage services' would be provided by enhanced *Structured Training and Employment Projects (STEP)* brokers (see text box below). They would work with local employers to identify employment opportunities and place people directly into jobs or organise training, mentoring and other activities that would prepare job seekers for identified jobs. CDEPs and IECs would be able to compete for new business as STEP brokers.<sup>73</sup>

### Text Box 5: Enhanced STEP employment brokers

#### *Regular STEP Program*

There has been an increased emphasis on STEP since 1999 when the government introduced a range of initiatives to improve Indigenous economic independence.<sup>74</sup> The STEP program has the following characteristics:

- Provides funding and tailored help to private sector businesses that employ Indigenous Australians;
- Jobs must be ongoing after STEP funding ceases;
- The level of funding depends on the type of organisation and assistance needed; and

71 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p7, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.

72 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p2, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.

73 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p8, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.

74 Australian Government, *Indigenous Employment Policy*, Employment and workplace services for Australians website, available online at <http://www.workplace.gov.au/workplace/Pages/ContentPage.aspx?NRMODE=Published&NRORIGINALURL=/workplace/Category/SchemesInitiatives/IndigenousProgs/IndigenousEmploymentPolicyIEP.htm&NRNODEGUID={1BB4D436-B862-4E41-9ABA-CFBDA2C2A713}&NRCACHEHINT=Guest#1> accessed 9 February 2007.



- Funding is available for training (including apprenticeships and traineeships, on the job training, school based apprenticeships and cross-cultural awareness training); development of an Indigenous employment strategy; mentoring; and help with employment costs.<sup>75</sup>

One feature that differentiates the STEP program from other Indigenous employment assistance programs is its *employer-driven orientation*. For example, STEP assistance 'is tailored to *business needs*'.<sup>76</sup> [emphasis added] This view is shared by Job Futures, which has described STEP as being:

aimed at getting employers to increase the number of Aboriginal employees on their books, not aimed at enabling Very Long Term Unemployed or disadvantaged job seekers to gain and sustain employment. ... STEP's effectiveness in creating new opportunities for long-term unemployed Aboriginal people, and for supporting local jobs for local people has not been demonstrated.<sup>77</sup>

#### *Enhanced STEP brokerage*

The government's description of 'enhanced STEP brokerage' indicates that like its predecessor, it too will focus on meeting *employer demand*:

The enhanced STEP brokerage model would provide employers with employees to fill their available jobs. DEWR and STEP brokers would develop local strategies *based on employer needs* particularly in growth industries. Services for employers under these new arrangements would include:

- Pre-employment support services that may include training and recruitment strategies;
- Employment placement services to assist them place and retain Indigenous Australians in their workplaces; and
- Mentoring services to help them retain their Indigenous employees.<sup>78</sup>

I am not confident that this demand-driven model is appropriate to address the problem of long-term Indigenous unemployment in Australia. Not only does it seem inappropriate to shift the focus to what *employers* need, rather than what will work best for Indigenous job seekers, it is also highly debatable that a demand approach will work in the regional centres where employment growth tends to be less strong. As Job Futures explains:

75 Australian Government, *Structured Training and Employment Projects (STEP) for employers*, available online at <http://www.workplace.gov.au/workplace/Individual/IndigenousAustralians/StructuredTrainingandEmploymentProjectsSTEPforemployers.htm> accessed 13 February 2007.

76 Australian Government, *Indigenous Programs*, available online at <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/IndigenousProgs/> accessed 9 February 2007.

77 Unpublished Job Futures response to government discussion paper: *Indigenous Potential Meets Economic Opportunity*, November 2006, p5. Response provided by Job Futures to the Aboriginal and Torres Strait Islander Social Justice Commissioner.

78 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p13, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.



While some employers complain that they would employ Aboriginal people if they could, these same employers complain about the quality of applicants they receive from Job Network. There is little evidence that employers have recognised either the need to reconsider their own hiring practices or the fact that the pool of high skilled, job-ready job seekers is diminishing – and those that remain require a substantial investment of time and resources to assist them into, and support them in, employment.

... It is important to recognise too, that demand led strategies have been most successful where they have been geared to the needs of a single large employer or a critical mass of medium size employers in a common location or industry. ... Demand led strategies may be viable in large urban centres with strong employment growth – like Perth or Melbourne. But it is less clear that they will work in Wagga, Broome or Port Lincoln.

It is worth noting that small business is the largest employer of Australians. ... Small businesses want employees who have real experience of paid work in a real workplace. The plant nurseries, maintenance crews, retail outlets, childcare centres, aged and disability care services that are currently provided by CDEP offer this opportunity.

It is important to note that these proposed changes are intended to commence implementation in mid 2007. The lifespan of these proposed new arrangements is only identified as being the next 2 years, i.e. 2007-08 and 2008-09. It seems the way is being left open for the full mainstreaming of Indigenous employment services in urban and regional centres following that.

The latest round of proposed changes to the CDEP scheme comes not long after a significant round of reforms last year. There has not been sufficient time to assess whether those changes were having a positive effective before Indigenous communities and organisations are now expected to absorb another, arguably more complex round of changes. This apparent 'restlessness' in arrangements, with constant changing of organisations, policy-settings, and even names, creates its own stresses and problems.<sup>79</sup>

It is important that there is clear direction and informed policy development in the critical area of Indigenous employment. This is not to suggest that all new policies should be free of modification and adjustment, but there needs to be recognition that communities and organisations can only absorb so much change before it becomes destabilising and detrimental.

It remains to be seen whether the government's proposal to increase Indigenous employment through job placement and job-relevant training in areas with an apparent strong labour market will result in increased sustainable job placements. However, there are a number of factors that bring into question whether this will be the case.

Principal among these is the assumption that a market with strong local demand will take up an Indigenous job seeker as readily as it would a non-Indigenous job

<sup>79</sup> An overview of the reform process over the past two years is provided in the chronology of events in Appendix 1 of this report and Appendix 1 of the *Social Justice Report 2005*.





seeker. As Job Futures pointed out in its response to the government's discussion paper:

Aboriginal job seekers, on the whole, are further from the world of work, more likely to live in jobless households, have lower basic skills (including literacy/numeracy) and are less likely to be prepared for sustainable work.<sup>80</sup>

Similarly, a downturn in current buoyant labour conditions may also weaken the position of Indigenous job seekers in the employment market.

Although the government is confident that the CDEPs that have been targeted for replacement by enhanced STEP brokers all have strong labour markets, the socio-economic status of Indigenous peoples in those locations does not compare well to the non-Indigenous population. As Job Futures explains, in each location:

- The unemployment rate of Indigenous peoples is higher and the labour force participation rate lower than for non-Indigenous people – even when the CDEP labour force is included in the employment figures;
- The level of long-term unemployment is higher amongst Indigenous people than non-Indigenous people; and
- The level of schooling of Indigenous people is substantially lower than non-Indigenous people.<sup>81</sup>

Given the profile of Indigenous job seekers in the locations where the CDEP reforms will occur, Job Futures has recommended the government maintain the CDEP scheme as an 'intermediate labour market program' – which was the broad intention of the 2005-06 changes to CDEP guidelines. Job Futures recommends that in urban areas, rather than abolishing them, CDEPs be:

repositioned as an Intermediate Labour Market program which provides an experience of real work, for wages, which reconnects people to the world of work and facilitates the transition to mainstream employment. ... While many employers are willing to provide vocational skills, employers are not geared to assisting employees to gain basic skills. Employers want employees who will turn up each day appropriately dressed, able to work effectively with co-workers and with a basic understanding of work safety rules. Intermediate labour market programs give people the chance to develop these skills.<sup>82</sup>

I am not alone in my concerns about the haste with which the changes to the CDEP scheme will be introduced, and the extent to which Indigenous communities and organisations will be prepared for their introduction.<sup>83</sup> The government's discussion paper acknowledges that on 1 July 2007 approximately 7,000 people will lose their

80 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p9, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.

81 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p9, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.

82 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p9, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.

83 See, for example, the Reverend Gregor Henderson, President of the Uniting Church, *Govt urged to defer axing of CDEP program*, ABC News online, 27 November 2006 available online at <http://www.abc.net.au/message/news/> accessed 2 December 2006.



CDEP wage. What it does not contemplate are the possible adverse social and economic consequences for the Indigenous individuals, families and communities that will be affected. As Job Futures warns:

CDEP is currently the largest employer of Aboriginal people in the country and is considered a real job by participants, community members and recipients of CDEP services. ... Unless these individuals have a job to go to, they will be made redundant and are likely to experience the range of personal, social and financial problems that go with this. Shame, withdrawal from social activity, ill health and poor financial status are some of the consequences. ...

We highlight these issues not because we believe that the status quo should remain, but because we believe that *change should be measured and should be calculated to improve the situation of Aboriginal people* – not drive communities and individuals to despair.<sup>84</sup> [emphasis added]

Although the government's discussion paper provides assurances that DEWR will develop comprehensive transition arrangements for all CDEP participants and service providers affected by the new model, there is surprisingly little detail about what such arrangements might entail. Beyond assurances that DEWR will 'ensure affected participants understand how the changes affect them and what their options are', and will 'work with CDEP service providers, Centrelink, and other service providers' to assist participants – there is no further information.<sup>85</sup>

The government's proposal to abolish all IECs without first evaluating their effectiveness is also a matter of concern. The discussion paper makes no comment about whether they achieved any of their objectives, or how the enhanced STEP brokerage system will improve on them. Rather it appears that the IEC model is being mainstreamed and re-badged as something new and improved, namely *enhanced STEP*. However there is surprisingly little detail about how the 'enhanced STEP' will be different from the old 'STEP'. For example, there is no information about:

- The number of people that will be able to access the service over time;
- The nature or level of the community activities stream;
- How activities under STEP will be differentiated from Job Network services; and
- The key performance indicators or the guidelines that DEWR will use to distribute business amongst the employment brokers.

I am not confident that the month-long public consultation process shed any further light on these matters or enhanced general understanding in the Indigenous community about how the reforms will operate. Such understanding is critical to the smooth implementation at the community level. As Job Futures observes:

After one consultation session at which DEWR presented, a number of organisational representatives discussed their impression of the extent to which community engagement activities would continue to be part of the enhanced

84 Unpublished Job Futures response to government discussion paper: *Indigenous Potential Meets Economic Opportunity*, November 2006, p3-4. Response provided by Job Futures to the Aboriginal and Torres Strait Islander Social Justice Commissioner.

85 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p9, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.



STEP model. The organisations had impressions ranging from that these activities would be unchanged under the new arrangements, to that they would be practically eliminated. This difference highlights the fact that the discussion paper simply does not have the level of information required by communities, recipients of CDEP services (eg childcare centres, Day Patrol) and CDEP participants to enable them to consult about the impact of the changes.<sup>86</sup>

I expressed significant concerns about the consultation process held for the previous round of CDEP reforms.<sup>87</sup> Similar concerns exist about the latest round of consultations on the discussion paper. A total of 30 face-to-face consultations were held in urban and regional centres over a two week period in November 2006, and each consultation ran for three hours. Interested parties had at most, one month to submit written comments.<sup>88</sup> Although the government has provided assurances that the feedback from these consultations will 'be used to shape the future direction of CDEP';<sup>89</sup> I question the extent to which the government will take on board any Indigenous or employment industry feedback. The government has already identified which CDEPs it will abolish, it has set a deadline of 1 July 2007 for the commencement of the STEP brokerages, and there simply is not the time to rethink the model in any substantive way.

Concerns have also been expressed regarding the capacity of some CDEPs and IECs to compete for STEP brokerage contracts against organisations that have years of experience bidding for contracts with DEWR.<sup>90</sup> Although DEWR intends to 'work closely with CDEP organisations to maximise the opportunities for emerging businesses to continue',<sup>91</sup> there is considerable risk that some of these organisations will not make the transition. The loss of organisations that deliver valuable if not essential services in Indigenous communities will have broader social and economic consequences that will need to be addressed as a matter of urgency.

Finally, I question the extent to which enhanced STEP will really provide a new service to Indigenous job seekers. The government acknowledges that some Indigenous job seekers will not be ready for training or job placement; hence community work activities will have to continue to be provided through the enhanced STEP. It appears that, to this extent at least, STEP will continue to operate like a CDEP in relation to these Indigenous clients. Similarly, the services described

86 Unpublished Job Futures response to government discussion paper: *Indigenous Potential Meets Economic Opportunity*, November 2006, p5. Response provided by Job Futures to the Aboriginal and Torres Strait Islander Social Justice Commissioner.

87 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p180-192.

88 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p14, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.

89 Australian Government, *Have your say*, Employment and workplace services for Australians website, available online at <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/IndigenousProgs/Haveyoursay.htm> accessed 13 February 2007.

90 Unpublished Job Futures response to government discussion paper: *Indigenous Potential Meets Economic Opportunity*, November 2006, p11. Response provided by Job Futures to the Aboriginal and Torres Strait Islander Social Justice Commissioner.

91 Australian Government, *Indigenous Potential meets Economic Opportunity: A discussion paper*, p12, available online at <http://www.workplace.gov.au/NR/rdonlyres/D61B8DCB-A036-423F-9511-299E83F22752/0/CDEPPaperdiscussionwebfinal.pdf> accessed 18 January 2007.



as falling within enhanced STEP are already currently available through the Job Network or Wage Assistance.<sup>92</sup>

My Office will continue to monitor developments in relation to the operation of the CDEP scheme and the enhanced STEP model. The effects of the changed arrangements will need to be carefully monitored before further changes are introduced. This will especially be the case if the proposed changes prove to be a trojan horse for further mainstreaming of Indigenous employment services in urban areas. It would be highly undesirable if a class of Indigenous peoples become permanently isolated from the labour market in urban and regional areas, without the support of CDEP or some similar arrangement that meets the particular needs of Indigenous unemployed people and allows them activity, training and purpose. It is difficult at this stage to see this being satisfactorily provided by the mainstream employment services.

## The Council of Australian Governments (COAG) Trials

The genesis of the new arrangements are to be found in the agreement in April 2002 of the Council of Australian Governments (COAG) to trial a new whole of government approach to the delivery of services to Indigenous communities at eight selected trial sites:

The aim of these trials will be to improve the way governments interact with each other and with communities to deliver more effective responses to the needs of indigenous Australians. The lessons learnt from these cooperative approaches will be able to be applied more broadly.<sup>93</sup>

The key objectives in the COAG trial sites were to:

- tailor government action to identified community needs and aspirations;
- coordinate government programs and services where this will improve service delivery outcomes;
- encourage innovative approaches;
- cut through blockages and red tape to resolve issues quickly;
- negotiate agreed project outcomes, benchmarks and responsibilities with the relevant people in Indigenous communities;
- work with Indigenous communities to build the capacity of people in those communities to negotiate as genuine partners with government; and
- build the capacity of government employees to work in new ways with Indigenous communities.<sup>94</sup>

92 Unpublished Job Futures response to government discussion paper: *Indigenous Potential Meets Economic Opportunity*, November 2006, p7. Response provided by Job Futures to the Aboriginal and Torres Strait Islander Social Justice Commissioner.

93 Council of Australian Governments, *Council of Australian Governments Communiqué: Reconciliation*, 5 April 2002, available online at <http://www.coag.gov.au/meetings/050402/index.htm#reconciliation> accessed 18 January 2007.

94 Council of Australian Governments, *COAG Indigenous Trials: Trial Objectives*, available online at [http://www.indigenous.gov.au/coag/trial\\_sites/default.html](http://www.indigenous.gov.au/coag/trial_sites/default.html) accessed 18 January 2007.



As it turns out, on the information available to date, it would appear that none of these objectives have been achieved to any significant degree (see below).<sup>95</sup>

The trials got underway in some sites in 2002 and in others in 2003. A federal government department was identified for each trial site to lead the government's involvement in the trial. The Secretary of the Department was to act as a 'champion' for the relevant community, in the sense of promoting the coordinated delivery of services by the federal departments involved. The sites were to be individually monitored and evaluated, as well as evaluating the overall whole of government approach embodied in the trials:

The whole-of-government initiative will be evaluated by an independent expert within two years of commencement and again after five years. Data collected and analysed through the performance monitoring process and feedback received from trial regions will be included in the evaluation.<sup>96</sup>

Unfortunately, these early commitments concerning evaluation of the COAG trials were slow in coming to realisation. An evaluation framework for the trials was released in October 2003, but this set out evaluation priorities rather than an evaluation process. In April 2004 it was stated that 'evaluation of the trials would be premature at this stage'.<sup>97</sup> Even though the trials had neither been completed nor evaluated at the time, in July 2004 the Government chose to replicate this whole of government service delivery model on a nation-wide basis through implementing the new arrangements for the administration of Indigenous affairs.

Thus, as I noted in 2004:

The structures of the new arrangements and the philosophy that underpins them can be seen to have been directly derived from the COAG trials.<sup>98</sup>

Indeed, despite the absence of any formal evaluation, the federal government continually stated that the new arrangements were based on 'the early learnings' from the COAG trials, as well as findings of the ATSIC Review.<sup>99</sup> *This places the COAG trials at the centre of the new arrangements.* Concerns about the trials have to be viewed in this context.

The key problem that presents itself is whether there was premature adoption of the COAG trials in terms of implementing the new arrangements. This danger was noted by the Senate Select Committee on the Administration of Indigenous Affairs in its 2005 report *After ATSIC – Life in the Mainstream?*<sup>100</sup> While the Senate Committee was supportive of the COAG trials, it had concerns, especially if the model was to be applied widely too early. As the Committee noted:

95 Indigenous Communities Coordination Task Force, *Trial Objectives*, see Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2003*, HREOC, Sydney, 2003, p40.

96 Council of Australian Governments, *COAG Indigenous Trials: Evaluation*, available online at <http://www.indigenous.gov.au/coag/evaluation/default.html> accessed 9 November 2006.

97 Management Advisory Committee, *Connecting Government – Whole of government responses to Australia's priority challenges*, Australian Public Service Commission, Canberra, 2004, p158.

98 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, HREOC, Sydney, 2004, p71.

99 Office of Indigenous Policy Coordination, *Australian Government Submission to the Senate Select Committee on the Administration of Indigenous Affairs*, 11 August 2004, p2, available online at [http://www.aph.gov.au/Senate/committee/indigenousaffairs\\_ctte/submissions/sub128.pdf](http://www.aph.gov.au/Senate/committee/indigenousaffairs_ctte/submissions/sub128.pdf)

100 *Senate Select Committee on the Administration of Indigenous Affairs, After ATSIC – Life in the mainstream?* Australian Senate, Canberra, March 2005.



The Committee is concerned 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>101</sup> [emphasis added]

In what now appears to be a prophetic observation, the Committee noted that the extent of dedicated support that the COAG trials were then receiving to ensure their success was unsustainable.<sup>102</sup>

My Office became increasingly concerned about arrangements for evaluation of these trials and public accountability for their outcomes. The *Social Justice Report 2003* noted that:

it is not clear at this stage that the performance monitoring framework of the trials will be sufficiently rigorous.<sup>103</sup> ... The lack of a clear evaluation strategy is of great concern.<sup>104</sup>

Consequently I recommended that an independent monitoring and evaluation process for the whole of government community trials initiative be initiated.<sup>105</sup> However, by the time of the *Social Justice Report 2005*, my concerns about the evaluation had not diminished, and I reported that:

To date, progress has been slow in ensuring that the new arrangements are subject to rigorous and transparent monitoring processes. The absence of sufficient processes amounts to a failure of government accountability.<sup>106</sup>

HORSCATSIA, in its 2004 report on its inquiry into capacity building and service delivery in Indigenous communities, whilst being generally supportive of the trials, also noted its 'serious concerns regarding the Trials.'<sup>107</sup> They stated:

The Committee notes that there has been limited, if any coordinated reporting on their implementation and, to date, no tangible evidence has emerged on their progress. The Committee has concerns regarding accountability matters, and believes that an effective audit process needs to be put in place and a regular report made on their progress in achieving outcomes.<sup>108</sup>

101 Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC – Life in the mainstream?* Australian Senate, Canberra, March 2005, paragraph 5.61, p91.

102 Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC – Life in the mainstream?* Australian Senate, Canberra, March 2005, p92.

103 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2003*, HREOC, Sydney, 2003, p46.

104 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2003*, HREOC, Sydney, 2003, p46.

105 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2003*, HREOC, Sydney, 2003, p48.

106 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p193.

107 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA), *Many Ways Forward: Report of the inquiry into capacity building and service delivery in Indigenous communities*, June 2004, paragraph 2.94 at p.47.

108 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA), *Many Ways Forward: Report of the inquiry into capacity building and service delivery in Indigenous communities*, June 2004, paragraph 2.94 at p.47.



The Committee went on to recommend that:

The Commonwealth Government report to Parliament on an annual basis on the progress of the COAG Trial of the whole of government approach to service delivery in Indigenous communities and regions, and that procedures be implemented to ensure that the report presented in the House of Representatives stands referred to this Committee for its considerations and report.<sup>109</sup>

In its response to the Committee's Report (August 2006), the government rejected this recommendation, arguing that it:

is committed to ensuring that reporting on the progress of the COAG trials is carried out and made widely available, and therefore [the government] does not consider that a report to the Parliament is necessary.<sup>110</sup>

Information about the progress of COAG trials has clearly not been made 'widely available' to date. The past three *Social Justice Reports* have expressed concerns about the lack of transparency and the absence of monitoring and evaluative processes, and the consequent lack of government accountability, for the COAG trials in some depth.<sup>111</sup>

This year the advice from the Office of Indigenous Policy Coordination (OIPC) concerning the status of the evaluation of the COAG sites has been as follows:

In late 2003 the Australian and State and Territory Governments agreed on a monitoring and evaluation framework for the eight COAG Indigenous coordination trials ... OIPC is coordinating evaluations of the eight COAG trial sites on behalf of the Australian Government, in consultation with the relevant Commonwealth and State/Territory lead agencies in each site.

Formative evaluations of each site commenced in 2005-06. The evaluations are looking at what's working well and what can be improved. They are being undertaken by independent evaluators using a common evaluation framework. They are focusing on how governments can improve their engagement with each other and with Indigenous people and communities. The evaluation reports will cover the history of the trial, the coordination processes used in the trial, interim outcomes and options for further consideration by the trial partners. The evaluations should be largely completed by July 2006.

An overarching report (or meta-evaluation) in the second half of 2006 will draw together the common themes and lessons from the individual COAG Trial site evaluations.

The need for and nature of further evaluation of the COAG Trials will be considered after the meta-evaluation and will be flagged in future evaluation plans as appropriate.<sup>112</sup>

109 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSI), *Many Ways Forward: Report of the inquiry into capacity building and service delivery in Indigenous communities*, June 2004, Recommendation 3, p61.

110 Australian Government response to *Many Ways Forward – Capacity building and service delivery in Indigenous communities*, August 2006, p15.

111 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2003*, HREOC, Sydney, 2003, pp227-251; Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, HREOC, Sydney, 2004, pp71-74; Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, pp193-202.

112 Office of Indigenous Policy Coordination, *Evaluation Plan for Whole-of-Government Activities in Indigenous Affairs 2006-09*, Attachment A, available online at [http://www.oipc.gov.au/documents/OIPC\\_EvaluationPlan\\_23May.pdf](http://www.oipc.gov.au/documents/OIPC_EvaluationPlan_23May.pdf) accessed 18 January 2007.



This timetable has run behind schedule. Further, the federal government has not made the findings of the reviews of the COAG trial sites publicly available as they have been completed, preferring instead to release all of the individual trial reports and the synopsis report when they are all complete and the government has had the opportunity to consider them.<sup>113</sup>

In the absence of information from the federal government on the evaluation of the trials, I sought to gauge the effectiveness of the trials using what information was available from various state and territory governments and other sources.<sup>114</sup> I presented and analysed this information in the *Social Justice Report 2005*, noting the shortcomings and problems evident in at least some of the trials at that stage. For example, independent evaluations of the Shepparton COAG trial, commissioned by the community partners, concluded that the trial was failing.<sup>115</sup>

Such apparent failures put a question mark over the entire COAG trial process. As the authors of the Shepparton evaluation rightly asked:

If the COAG pilot is unable to function successfully in an innovative and tested Aboriginal community such as Shepparton, the question must be asked: Where can it succeed?<sup>116</sup>

We now have part of the answer to that question: not, apparently, at Wadeye in the Northern Territory.

The evaluation of the Wadeye COAG trial (also referred to as the 'Gray Report') entered the public arena in late 2006 before the government intended and was widely reported in the press.<sup>117</sup> It was also discussed at the November 2006 Senate Estimates hearings. The Gray Report described significant problems with the Wadeye trial (see box below).

Wadeye was selected as the Northern Territory site for a COAG trial. The Secretary of the then Department of Family and Community Services (FaCS) was responsible for the implementation of the trial. Its high profile nature prompted the Prime Minister, the Chief Minister of the NT, and other senior Ministers to visit Wadeye during the period of the trial, which in turn heightened expectations of the trial's success. The Secretaries' Group on Indigenous Affairs *Annual Report 2004-05* commented:

The trial site at Wadeye is showing how governments can work together with Indigenous communities to improve outcomes for Indigenous people.<sup>118</sup>

113 Ms Bryant, *Hansard*, Standing Committee on Community Affairs Estimates, Canberra, 2 November 2006, p29, available online at <http://www.aph.gov.au/hansard/senate/commttee/S9783.pdf> accessed 13 February 2007.

114 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, pp193-202.

115 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, pp200-01.

116 The Eureka Project, *Take It Or Leave It – How COAG is failing Shepparton's Aboriginal People*, The Eureka Project Pty Ltd Melbourne, October 2005, p9.

117 Bill Gray AM, *Council of Australian Governments (COAG) – Wadeye Northern Territory – An independent evaluation*, May 2006.

118 Secretaries' Group on Indigenous Affairs, *Secretaries' Group Annual Report on Indigenous Affairs 2004-05*, Canberra, 2005, p7, available online at [http://www.oipc.gov.au/performance\\_reporting/sec\\_group/](http://www.oipc.gov.au/performance_reporting/sec_group/) accessed 18 January 2007.





In a similar vein, the then Minister, Senator Vanstone, had commented:

In the COAG trial we dealt directly with the 'Thamarrurr' [traditional governance arrangement] so each of the clans has been able to have its say. As a result of us listening to the Thamarrurr and responding, life is now improving for the people of Wadeye.

The Thamarrurr, Territory and Australian governments agreed education was a priority and just last week there was a massive increase in the number of children attending school. So much so that more desks had to be put on the barge from Darwin.

What works in Wadeye of course will not work everywhere else.<sup>119</sup>

Unfortunately the optimism shown about the trial proved to be misplaced. The evaluation report by Bill Gray AM, a highly regarded former senior government official, indicates an almost total failure of the Wadeye trial to achieve its objectives.

### **Text Box 6: The 'Gray Report' The Wadeye COAG Trial Evaluation – a failed experiment?**

The Wadeye community is the largest Aboriginal community in the Northern Territory and indeed one of the larger Northern Territory towns. Despite extremely low life expectancy, the population has a very high rate of natural increase.<sup>120</sup> Wadeye has appalling health statistics, serious overcrowding, and significant crime and violence which at times render the community virtually dysfunctional.

Wadeye seemed a good choice for a COAG trial – a large community with a number of pressing needs. Initially, there were strong expectations that the COAG trial, based on a whole of government approach and direct engagement with the community (through the Thamarrurr Regional Council), would lead to more effective service delivery and consequently improvements in social and economic circumstances.

As part of the trial, a Shared Responsibility Agreement (SRA) was signed between the Australian Government, Northern Territory Government, and Thamarrurr Council in March 2003. The SRA identified three priority areas for action: Women and families; Youth and Housing; and construction.

The Gray Report shows that in key aspects the trial has been a significant failure. There was no identified leadership of the trial. Contrary to the trial's objective of a reduction in red tape, the burden of administering funds increased markedly. Flexible funding and streamlining did not eventuate. Experience of communications within and between governments was mixed with a reduction in effective communication as the trial progressed.

119 Vanstone, A., (Minister for Immigration and Multicultural and Indigenous Affairs), *Address to National Press Club*, Speech, 23 February 2005.

120 Taylor, J., *Social Indicators for Aboriginal Governance: Insights from the Thamarrurr Region, Northern Territory*, Centre for Aboriginal Economic Policy Research (CAEPR), Research Monograph No24, 2004, p35.



The government's objective of improving engagement with Indigenous families and communities was not achieved. There was a significant breakdown in relations with Thamarurr. Other key structures or processes agreed under the SRA, such as Priority Working Groups, either never became operational or faltered.

The community's expectations of improvements in infrastructure and services were not realised. In particular, nothing was done about the priority area of 'Youth'. The community had expected that youth issues, gang violence and safety would be addressed and resolved at an early stage of the trial. Instead this agreed priority area was allowed to 'fall between the cracks.' If anything, things became worse causing considerable disappointment and anger within the community.

Provision of more housing at outstations was seen (and remains so) by the community as the only sustainable solution to overcrowding at Wadeye. At the end of the trial the pressing needs of Wadeye remain. The community needs a major commitment of resources including an urgent investment in housing, especially at outstations. It also needs support for activities and resources to deal with youth and gang-related difficulties.

As discussed further below, the federal government has now commenced what it terms a 'strategic intervention' approach for selected communities. Wadeye is one such community. The arrangements advanced through the COAG trial are likely to be sequenced into this new strategic intervention approach, possibly linked through the development of a Regional Partnership Agreement. Announcements on this approach are likely to be announced in the 2007-08 Budget in May 2007. How this approach will respond to the significant concerns identified in the Gray report is unknown at this stage.

The Wadeye COAG trial showed that the whole of government approach to service delivery is difficult to implement, requires a major investment of time and resources, and has yet to demonstrate that it provides a reliable and realistic platform for the administration of Indigenous affairs. Whilst coordination of service delivery is important and should be pursued, it is not a substitute for developing and implementing strong policies and effective programs to respond to the difficult circumstances facing communities like Wadeye.

A sense of urgency, commitment and partnership is required. However, as of November 2006 at Wadeye the government is instead locked in a wrangle over leasing arrangements for the township which seem more to do with ideology and less to do with service delivery.<sup>121</sup> Australian National University researcher John Taylor has observed:

... the Thamarurr region is rapidly expanding in population size. Unless a major upgrading occurs, this trajectory means that Wadeye (along with many predominantly Aboriginal towns across the Top End) will be increasingly anomalous in the Australian settlement hierarchy for being a vibrant and growing medium-sized country town yet with almost none of the basic infrastructure and services normally associated with such places.<sup>122</sup>

121 *Govt Rejects 20-Yr Lease Proposal*, 1 December 2006, News item available online at [http://www.abc.net.au/message/news/stories/ms\\_news\\_1802425.htm](http://www.abc.net.au/message/news/stories/ms_news_1802425.htm) accessed 15 February 2007.

122 Taylor, J., *Social Indicators for Aboriginal Governance: Insights from the Thamarurr Region, Northern Territory*, Centre for Aboriginal Economic Policy Research (CAEPR), Research Monograph No. 24, 2004, pp35-36.



The Wadeye trial indicated unresolved tensions or contradictions in policy settings. For example, genuine engagement at family level, a key objective of the new arrangements, will almost certainly take government down the path of support for smaller family and clan-based satellite and outstation communities. However, present federal government policy towards outstations is uncertain at best, and has included a moratorium on housing for outstation and similar communities, as described in Text Box 7 below.

### **Text Box 7: Moratorium on housing and infrastructure expenditure on homelands and outstations**

Over the previous year the withdrawal of funding support for outstations, homelands and pastoral property communities has been threatened by the federal government on a number of occasions.

The funding guidelines for the Community Housing and Infrastructure Program (CHIP) for 2006-07 (see below) introduce a moratorium on housing and infrastructure assistance in these areas. I find this decision difficult to understand given the acute level of need for housing stock in these areas. Outstations and homelands are often the very communities that have attempted, with a commendable degree of success, to establish economic self sufficiency and social stability. Despite some examples where homeland communities have not proved viable, it is widely acknowledged that it is highly desirable for Indigenous peoples to be able to live in extended family or clan arrangements, either on or in proximity to their traditional country.

Sensible investment in these communities will provide real improvements in addressing Indigenous disadvantage. Small scale enterprises, tourism ventures, traditional arts and crafts, coastal surveillance and engagement in environmental and land management activities are all areas where small communities are well placed to succeed and merit support and encouragement. Problems of isolation and remoteness can be overcome with innovative approaches to service delivery and drawing on the range of technological options now available in fields such as energy, communications and distance education.

Whilst the moratorium is in place, the quality of life of those currently living on homelands and outstations is likely to deteriorate. Among the likely adverse consequences for these communities are: exacerbation of already overcrowded Indigenous communities (including in the larger settlements), deterioration in health status, and relocation of some people to the fringes of rural and regional towns where social and economic opportunities are more limited.



### **CHIP – E-Sub Program Guidelines 2006-07**

#### **2.5 Homelands and Outstations<sup>123</sup>**

Considerable whole of government discussion is occurring on the funding to homelands and outstations. While this work is being undertaken **the moratorium on the funding of new homelands and outstations remains in place.**

Submissions for funding of homelands and outstations in 2006-07 will only be considered if the homeland has previously received funding under the programme and essential services are in place. Funding will only be provided to maintain and repair existing housing, infrastructure and essential services.

In addition the homeland or outstation must satisfy the existing funding criteria that serve to minimise risks to the health and safety of homeland residents and to the assets and infrastructure.

The greatest danger arising from the disappointing outcomes of the COAG Wadeye trial, and from similar problems with other COAG trials, is that the wrong lessons will be learned.

When asked about the government's response to the Gray Report at Senate Estimates hearings in early 2007, the Associate Secretary of FaCSIA explained that '... our [the government's] response to the evaluation predated our receipt of the report.'<sup>124</sup> The Associate Secretary went on to explain that shortly after taking office, the Minister for Indigenous Affairs travelled to Wadeye and undertook immediate action to try to alleviate the situation and quell local riots. Not only is this an indication of the extent to which the trial had failed to achieve a coordinated, whole of government outcome, it is also a very clear indication of the fact that we may not be given the opportunity to learn the lessons from the Wadeye trial. The message from Wadeye may well be as much about policy failure as about failure of processes and procedures. We have to look this possibility squarely in the face – simply moving on to another 'model' of intervention will not do.

Whilst the trial evaluations remain important in their own right, the COAG trial evaluations are something of a proxy for evaluation of the new arrangements in their entirety. Significant problems in respect of the trial sites would suggest that the system as a whole may be in difficulty. This consideration adds a dimension of urgency and significance to the evaluations of the COAG trials.

It is becoming evident that serious discussion needs to take place with Indigenous peoples and other stakeholders at national, regional and local levels about the new arrangements in Indigenous affairs. As we move into post-COAG trial arrangements for Indigenous affairs, there is a pressing need for transparent and rigorous evaluation processes if egregious errors of policy and judgement are to be avoided.

123 FaCSIA, *Community Housing and Infrastructure Program (CHIP) E-Sub Program Guidelines 2006-07*, pp5-6, available online at [http://www.facs.gov.au/internet/facsinternet.nsf/via/chip\\_guidelines/\\$file/e-sub\\_guide\\_2006\\_07.pdf](http://www.facs.gov.au/internet/facsinternet.nsf/via/chip_guidelines/$file/e-sub_guide_2006_07.pdf) accessed 5 December 2006.

124 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Additional Budget Estimates, Canberra, 12 February 2007, pCA99. Available at <http://www.aph.gov.au/hansard/senate/commtee/S9937.pdf> accessed 15 February 2007.



Such regular reviews of progress on the new arrangements should involve Parliamentary scrutiny. The appropriate body for ongoing review would be either the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs; the Senate Standing Committee on Aboriginal and Torres Strait Islander Affairs (which was established as a one off committee for inquiry into the bill to abolish ATSIC); or a newly established standing Joint Parliamentary Committee.

The 'democratic spotlight' that this would provide is especially important in an area as complex and sensitive as Indigenous affairs, and it is unrealistic to think that all wisdom can rest in the necessarily somewhat circumscribed world of Ministers and senior bureaucrats who have limited knowledge or experience in Indigenous affairs. The imposition of unresearched and unproven policies on Indigenous Australians will continue to enable governments to blame the victims for the failures of such policies.

At present, the Senate Estimates process is the only avenue for information about the new arrangements and their implementation. These hearings are, however, limited in scope (relating to matters of appropriation and not policy development). They do not provide an adequate process for Parliamentary scrutiny of Indigenous affairs, particularly given that there is no avenue for the direct input and participation of Indigenous communities and people into the process.

## Post COAG trials – another 'new' approach

Regardless of whether individual COAG trials have been more or less successful, it is now clear that the federal government is moving to abandon them. There is an evident lack of enthusiasm for continuing with the COAG model for service delivery to communities. As has been pointed out by senior officials: '[t]he trials were trials; it was never intended that they would go on forever'.<sup>125</sup>

It appears likely that once all the COAG site evaluations are completed (anticipated for late 2006) and the results of the 'meta-evaluation' of all the evaluations considered, governments will move on from the COAG trial approach. Comments made at the November Senate Estimates hearings indicate when and how the trials could be brought to an end:

*Mr Gibbons* – It [ending the trials] is under consideration with a number of jurisdictions now. If I take the Wadeye one which we have been talking about, I believe both governments are comfortable with the idea of *transitioning* from a trial into a regional partnership agreement. The negotiations we are having at the invitation of the Chief Minister will probably lead to a longer term commitment to replace the COAG trial. [emphasis added]

... As a result of the evaluations that are about to be considered by government, I think consideration will be given to bringing the trials to an end and moving

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125 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, 2 November 2006, pCA39, available online at <http://www.aph.gov.au/hansard/senate/commttee/S9783.pdf> accessed 13 February 2007.



on, but that will have to be resolved in partnership with the appropriate state or territory jurisdiction.<sup>126</sup>

The new approach now being implemented is two-pronged. On the one hand it *devolves* the authority for agreement-making for service delivery down, by giving ICC managers authority to commit in a single SRA up to \$100,000, and state managers up to \$500,000.<sup>127</sup> On the other hand, agreements relating to regions or communities deemed to be 'in crisis' are being *elevated* to the status of high-level agreements between the federal and state/territory governments. These agreements are being referred to as 'strategic' or 'intensive interventions' in respect of designated priority communities.

Turning first to the increased authority for the ICC and state managers, this appears to be an attempt to find a way around the red tape that has tied up the new arrangements and hindered the delivery of substantive outcomes in communities. The types of projects that the government intends to fund under this initiative include early childhood centres, sports facilities and new housing. To enable managers to respond to the immediate needs of Indigenous communities, they will ask them to 'sign on-the-spot shared responsibility agreements in exchange for the cash.'<sup>128</sup> As the Minister has explained:

The managers of the 29 Indigenous Co-ordination Centres that have been created across the country will no longer have to wait for official sign-off to take action. We are giving ICC managers the capacity to actually see what needs to be done on the ground to make those decisions and fund them on the ground, bang.<sup>129</sup>

This 'bottom up' model contrasts with the more 'top down' approach that is implicit in 'strategic interventions'. The Minister for Families, Community Services and Indigenous Affairs is credited with having developed the framework for strategic interventions in an attempt to address the failures of the COAG trials and the continuing serious problems in a number of Indigenous communities:

Since Minister Brough has come in he has very quickly decided that you have got to define an area, put someone in to do an assessment and really coordinate between the Commonwealth and the state *an intensive response* which is coordinated and planned, et cetera. That is basically the route we are going in Wadeye [post COAG trial], as well as a range of other locations across the north of Australia.<sup>130</sup> [emphasis added]

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- 126 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, 2 November 2006, pCA39, available online at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.
- 127 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, 2 November 2006, pCA16, available online at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.
- 128 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), quoted in 'No more waiting on black projects', article in Equity Email Networks Newsletter, Issue 26, 14 September 2006, available online at [http://www.equity.qut.edu.au/publications/publications/newsletter/E\\_News\\_Issue\\_26.doc](http://www.equity.qut.edu.au/publications/publications/newsletter/E_News_Issue_26.doc) accessed 18 January 2007.
- 129 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), quoted in 'No more waiting on black projects', article in Equity Email Networks Newsletter, Issue 26, 14 September 2006, available online at [http://www.equity.qut.edu.au/publications/publications/newsletter/E\\_News\\_Issue\\_26.doc](http://www.equity.qut.edu.au/publications/publications/newsletter/E_News_Issue_26.doc) accessed 18 January 2007.
- 130 Harmer, J., (Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs Estimates, Canberra, 2 November 2006, pCA41, available online at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.



This is spelt out a little more in the following description:

A significant change since Minister Brough has been in the portfolio, recognising some of the experience that has come out of the trials and elsewhere, has been the reconstruction of our approach to Commonwealth-State cooperation in this area to lock the bulk of our investment into joint agreements around strategic issues.

In the case of Alice Springs, for example, we were invited to assist the Northern Territory deal with the growing issue of demographic movement into Alice Springs and the shortage of accommodation, both long and short term, et cetera. We are making a significant investment there in partnership with the Northern Territory. We have been asked to do the same in Wadeye. So, instead of committing first and then working out what we are doing, we are negotiating up front what the objective is, what each jurisdiction is going to do and what conditions are going to prevail et cetera.<sup>131</sup>

The Secretary of FaCSIA, put the same point another way:

...we are in the process of *changing our approach entirely* and it is an approach based on a very clear bilateral arrangement with the state or territory government - in this case, the Northern Territory. While we are still talking with them, we have not got a document that spells it out but it is very much a focus on ensuring that the state or territory government live up to their responsibilities around schooling and policing and those sorts of things. In return for that, we live up to our responsibilities in the provision of our services. That is basically what it is about.<sup>132</sup>[emphasis added]

I have quoted from the Senate Estimates hearings at some length because there has been little public consideration of the newly proposed changes to the administration of Indigenous affairs. It is important to understand what is involved, and to appreciate that these changes have been triggered by the problems associated with the COAG trials.

In September 2006, the Australian Government confirmed this new intensive intervention approach as applying more broadly to urban communities when the *Australian Government Blueprint for Action in Indigenous Affairs* was endorsed by the Ministerial Taskforce on Indigenous Affairs. As noted by OIPC, this Framework:

introduces a more structured, geographically based approach that recognises that locational factors have a significant bearing on Indigenous peoples' wellbeing and on how governments can best work to overcome Indigenous disadvantage.<sup>133</sup>

The government notes that the Blueprint is based on three geographic categories from the ARIA classification system: urban (where over 30% of the Indigenous population live), regional (with approximately 43% of the Indigenous population) and remote (where about 27% of Indigenous Australians live). OIPC have noted

131 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, 2 November 2006, pCA42, available online at <http://www.aph.gov.au/hansard/senate/commttee/S9783.pdf> accessed 13 February 2007.

132 Harmer, J., (Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, Canberra, 2 November 2006, pCA41, available online at <http://www.aph.gov.au/hansard/senate/commttee/S9783.pdf> accessed 13 February 2007

133 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of Social Justice Report 2006*, 22 December 2005, pp8-9.



that this definition of 'urban' differs from the definition used by OIPC to date, which was less specific.<sup>134</sup>

The Blueprint repeats the government's intention to focus on harnessing the mainstream in urban areas:

In addressing Indigenous disadvantage the Australian Government aims to *leverage existing infrastructure*. In urban areas the majority of existing infrastructure revolves around mainstream programs and services, and consequently the work to address disadvantage in urban areas focuses on harnessing the mainstream.<sup>135</sup>

The government goes on to state that 'leveraging existing infrastructure' in order to 'harness the mainstream' entails the following:

The Blueprint outlines the role of Australian Government agencies in urban areas as 'improving the functioning of mainstream services for Indigenous people', including through intensive place-based intervention if necessary. The Australian Government applies the principles of flexibility, shared responsibility and local solutions across all its work on urban and mainstreaming issues. Strategies for the Australian Government to achieve this are identified in the Blueprint, including:

- develop and implement an Indigenous urban strategy that identifies and removes barriers to access and modifies mainstream services to improve participation by and outcomes for Indigenous people;
- share responsibility, make agreements, and be flexible and consultative in order to improve outcomes and build better relationships;
- respond to the needs identified locally and use intensive intervention when needed (coordinated centrally by FaCSIA and ICCs where relevant);
- improve the quality, design, and delivery of Indigenous-specific and mainstream services; and
- improve its own and support its partners' cultural understanding, governance, operations, policies, accountability and evaluation.

Cooperation and coordination across all governments is needed to improve the integration of, and outcomes from, services. The role of States and Territories is critical, given their significant responsibility for service delivery and relevant regulation. FACSIA's role is to facilitate policy development where there are issues in common across the Australian Government or with States and Territories through overarching bilateral agreements.

FACSIA has initiated cross-departmental work on policy issues relating to improving mainstream service provision and cultural inclusiveness, provided opportunities for Australian Government departments to learn from each other, and has sought the advice of the National Indigenous Council (NIC) on those issues. The NIC has underlined the need to adapt mainstream services and improve their cultural inclusiveness to ensure that Indigenous people get better access to and outcomes from those services.

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134 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of Social Justice Report 2006*, 22 December 2005, p8.

135 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of Social Justice Report 2006*, 22 December 2005, p8.





Program and service delivery is the responsibility of the specific Australian Government department or agency managing the program or service. The OID reporting framework is being used to guide the construction of performance indicators in Shared Responsibility Agreements and the development of Baseline Community Profiles.<sup>136</sup>

There are two features of concern in this Blueprint. The first is the clear lack of progress in improving mainstream access that has occurred in the first two years of the new arrangements. The Blueprint provides a further bureaucratic re-organisation of what the government intends to do rather than reporting on what the government is actually doing or has already done. It also proposes the development of an urban strategy – surely there are useful lessons from the past two years of the new arrangements and the operation of ICCs in urban localities, in particular, to advance this?

The second is that the federal government is moving towards a *bilateral interventionist model*. The government appears to require some certainty from its state and territory counterparts on the level and detail of their commitment *before* an intervention can commence, rather than developing this as the program unrolls in the chosen community. It is clear that the interventionist model puts the strategic decision-making clearly in the hands of government – with the Indigenous community only becomes involved *after* the basic decision to intervene has been made and respective levels of commitment agreed.

Elcho Island (Galiwin'ku) in the Northern Territory has been given as an example of a strategic intervention that is underway.<sup>137</sup> In this instance the Australian and Northern Territory Governments selected the community, but the federal government is now 'engaged with the traditional owners on Elcho Island and the historical people of Galiwinku' in an attempt to 'secure the agreement of all the parties' before the detailed planning of the implementation stage of the intervention is finalised.<sup>138</sup>

This example suggests that 'strategic intervention' in fact means 'restricted Indigenous participation' at a governmental and priority-setting level. Priorities are determined by outsiders (governments), then the insiders (the community) are invited to participate in the detailed planning and implementation.

This does not appear to provide a sound basis for 'ownership' by Indigenous communities of initiatives undertaken as part of such strategic interventions. It is inconsistent with the various commitments made by government through COAG relating to Indigenous participation.<sup>139</sup>

136 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of Social Justice Report 2006*, 22 December 2005, p9.

137 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, 2 November 2006, pCA22, available online at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.

138 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, 2 November 2006, pCA22, available online at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.

139 These are outlined in detail in the Chronology in Appendix One as well as in Chapter 3 of this report.



Nor would it be consistent with the *Guidelines for engagement with Indigenous peoples* that were contained in the *Social Justice Report 2005*. Of particular importance in the context of 'strategic interventions' are the following principles, contained in the Guidelines:

- Indigenous peoples have the right to full and effective participation in decisions which directly or indirectly affect their lives;
- Such participation shall be based on the principle of free, prior and informed consent, which includes governments and the private sector providing information that is accurate, accessible, and in a language the indigenous peoples can understand;
- Governments and the private sector should establish transparent and accountable frameworks for engagement, consultation and negotiation with indigenous peoples and communities;
- Indigenous peoples and communities have the right to choose their representatives and the right to specify the decision making structures through which they engage with other sectors of society;
- Frameworks for engagement should allow for the full and effective participation of indigenous peoples in the design, negotiation, implementation, monitoring, evaluation and assessment of outcomes;
- Indigenous peoples and communities should be invited to participate in identifying and prioritizing objectives, as well as in establishing targets and benchmarks;
- There is a need for governments, the private sector, civil society and international organizations and aid agencies to support efforts to build the capacity of indigenous communities, including in the area of human rights so that they may participate equally and meaningfully in the planning, design, negotiation, implementation, monitoring and evaluation of policies, programs and projects that affect them.<sup>140</sup>

To ensure a sound basis to government programs, full Indigenous participation must be guaranteed *from the start* in determining the priorities and basic parameters of government support. Perhaps the term 'intervention' itself is a bit awkward, and a term without a connotation of unilateralism might be preferable.

Concurrent with the strategic intervention approach, a new division has been established in FaCSIA to administer the interventions, known as the *Strategic Interventions Task Force*. The Task Force is to initially focus on communities on Mornington Island, in Queensland; Galiwinku, Alice Springs and Wadeye in the Northern Territory; and Kalumburu in Western Australia.<sup>141</sup>

140 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, pp107-109.

141 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), quoted in 'No more waiting on black projects', article in Equity Email Networks Newsletter, Issue 26, 14 September 2006, available online at [http://www.equity.qut.edu.au/publications/publications/newsletter/E\\_News\\_Issue\\_26.doc](http://www.equity.qut.edu.au/publications/publications/newsletter/E_News_Issue_26.doc) accessed 18 January 2007.



Another associated change has been referred to by the Minister as 'cutting the fat from the bureaucracy'.<sup>142</sup> It will result in just one State Manager being responsible for Families, Community Services and Indigenous Affairs in each state and territory, rather than having a separate Indigenous Affairs Manager (within OIPC) and State Manager (within FaCSIA).

The federal government will move staff from southern Australia to remote areas in northern Australia to give isolated communities more intensive support. This will be done through a phased approach. Such a move is consistent with the government's view that urban and regional based Indigenous peoples can be served by mainstream agencies and services. This reinforces concerns that the government continues to focus insufficient attention on the specific difficulties of urban and regional Aboriginal communities in accessing mainstream services.

A further component of the changed arrangements now being introduced concerns community profiles or baseline data. The Office of Indigenous Policy Coordination (OIPC) has advised that as a result of the COAG trials, better baseline data is required. Thus:

OIPC is developing an approach for evaluating intensive whole-of-government initiatives in Indigenous communities and regions. *This evaluation approach would be used for priority region interventions.* Elements of this approach would be applied as appropriate to comprehensive SRAs, other SRAs with a substantial investment, and a sample of communities being assisted under the Petrol Sniffing 8 Point Plan.<sup>143</sup> [emphasis added]

OIPC has developed a prospective timetable for community profiles as part of the Performance Management Framework for Intensive Whole-of-Government Interventions, as follows:

#### **Text Box 8: OIPC Evaluation Timetable 2006-09<sup>144</sup>**

##### **Year 0**

- Establish a community profile to report on the current status of the community using both quantitative and qualitative measures. Intangible elements such as governance and family violence would be included through the use of qualitative data. This profile would establish the current state of play, and capture the community's view on the perceived trajectory – are things getting better or worse?

142 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), quoted in 'No more waiting on black projects', article in Equity Email Networks Newsletter, Issue 26, 14 September 2006, available online at [http://www.equity.qut.edu.au/publications/publications/newsletter/E\\_News\\_Issue\\_26.doc](http://www.equity.qut.edu.au/publications/publications/newsletter/E_News_Issue_26.doc) accessed 18 January 2007.

143 OIPC, *Evaluation Plan for Whole-of-Government Activities in Indigenous Affairs 2006-09*, Attachment C, available at [http://www.oipc.gov.au/documents/OIPC\\_EvaluationPlan\\_23May.pdf](http://www.oipc.gov.au/documents/OIPC_EvaluationPlan_23May.pdf) accessed 18 January 2007.

144 OIPC, *Evaluation Plan for Whole-of-Government Activities in Indigenous Affairs 2006-09*, Attachment C, available at [http://www.oipc.gov.au/documents/OIPC\\_EvaluationPlan\\_23May.pdf](http://www.oipc.gov.au/documents/OIPC_EvaluationPlan_23May.pdf) accessed 18 January 2007.



- Conduct a diagnostic assessment to identify community strengths and opportunities, determine priority areas for action and inform a community action plan.
- Negotiate a plan of action (for example, through an SRA or RPA) with the community on the basis of the profile and diagnostic assessment. This would include a small set of performance indicators relevant to the planned interventions that would be monitored on a regular basis.
- Begin implementing the agreed action plan with regular reporting against the small set of performance indicators relevant to the agreed interventions.

#### **Year 2-3**

- Rerun the community profile to assess progress against the baseline.
- Undertake a formative evaluation to inform fine tuning of the action plan, with a focus on what's not working, what's working well and what could be improved.

#### **Year 6-8**

- Rerun the community profile to further build a picture of progress against the baseline.
- Undertake a summative evaluation to measure and assess the effectiveness of the strategy.

A key element of the evaluation strategy proposed is using the data to help frame and reframe the necessary interventions. As the community is consulted in the compilation of this data, they are directly involved both in agenda setting and the evaluation process. This approach also allows the interventions to evolve over time in response to community needs.

Ensuring a well designed quantitative and qualitative profile that will remain relevant over the life of the planned intervention will be essential to the success of this approach. The *OIPC Evaluation Plan for Whole of Government Activities in Indigenous Affairs 2006-2009* indicates that OIPC will be working in partnership with state and territory governments and local communities to establish a number of quantitative and qualitative baseline data points.

As anyone with experience in Indigenous affairs can attest, community profiling exercises have something of a cyclical nature. Over the years there have been a number of such exercises, of varying detail and quality. As well, there is already a considerable amount of data available from a range of sources including state and territory profiles of communities,<sup>145</sup> the Australian Bureau of Statistics, the Centre for Aboriginal Economic Policy Research (CAEPR), the Australian Institute for Health and Welfare (AIHW), a range of government agencies that collect data to inform their own programs, and academic institutions.

As profiled in last year's *Social Justice Report*, there has also been the regional identification of priorities by Indigenous peoples through ATSIC Regional Council

<sup>145</sup> See, for example, the Northern Territory Government's BushTel site which provides a basic data set on all Indigenous communities in the Territory, at [http://www.bushtel.nt.gov.au/portal/page?\\_pageid=53,1&\\_dad=portal&\\_schema=PORTAL&p\\_nav\\_type=BushTelHome&p\\_text\\_only](http://www.bushtel.nt.gov.au/portal/page?_pageid=53,1&_dad=portal&_schema=PORTAL&p_nav_type=BushTelHome&p_text_only) accessed 19 January 2007.



Plans, extensive data collection through the Western Australian Aboriginal Child Health Survey, and information collated nationally through regional health planning forums under the National Aboriginal and Torres Strait Islander Health Strategy. Each of these is a significant source from which community profiling exercises could draw.

Such community profiling should only be undertaken with the full participation and cooperation of Indigenous communities. A profiling exercise conducted with such participation can provide a valuable tool for empowering communities to identify the priority issues and actions necessary to improve their circumstances.

I do, however, have some concerns about this approach. The investment of the high level of resources and time to develop such community profiles should not be an end in itself. The identification of high levels of needs in communities, for example, necessitates action to address the findings of this research. This was a fundamental failing of the extensive community profiling done as part of the COAG trial in Wadeye, where government expenditure and program activity has clearly not responded to the urgent and high levels of need identified in the community profiling work undertaken by John Taylor.<sup>146</sup>

The findings of such community profiling should also be treated with flexibility. The population dynamics of remote area communities mean that today's demographic profile might be quite inaccurate in a year or two. The difficulties of making valid comparisons over time in Indigenous communities, because of population instability and other reasons, on almost any social indicator, have been extensively documented.<sup>147</sup>

Taylor, Bern and Senior have affirmed the importance of establishing baseline data, but with the qualification that careful attention must be paid to the impact that future population dynamics may have on community needs and priorities:

In Indigenous affairs generally, social indicator analysis is increasingly used to quantify the degree of relative disadvantage and to monitor the effects of government policy and economic development in general. In a fundamental sense, planning for social and economic change is determined by the size, growth, and socioeconomic composition of populations. Accordingly, an understanding of these factors is essential for a proper assessment of the need for, access to, and distribution of resources. There is also a growing awareness of a need to better understand the dynamics of change in the size and composition of the Indigenous population, so as to formulate policies that are based not solely on current or historic assessment of government obligations, but also on some estimation of anticipated requirements.<sup>148</sup>

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146 See Taylor, J., *Social Indicators for Aboriginal Governance: Insights from the Thamarrurr Region, Northern Territory*, Centre for Aboriginal Economic Policy Research (CAEPR) Research Monograph No.24, 2004, available at <http://www.anu.edu.au/caepr/mono.php> ; and Taylor, J. and Stanley, O., *The Opportunity Costs of the Status Quo in the Thamarrurr Region*, CAEPR Working Paper No28, 2005, available at <http://www.anu.edu.au/caepr/working.php> accessed 15 February 2007.

147 See, for example, Taylor, J., Bern, J. and Senior, K.A., *Ngukurr at the Millennium: A Baseline Profile for Social Impact Planning in South-East Arnhem Land*, Centre for Aboriginal Economic Policy Research (CAEPR) Research Monograph No 18, 2000, Chapter 1.

148 Taylor, J., Bern, J. and Senior, K.A., *Ngukurr at the Millennium: A Baseline Profile for Social Impact Planning in South-East Arnhem Land*, Centre for Aboriginal Economic Policy Research (CAEPR) Research Monograph No 18, 2000, p5.



Another important caution that needs to be applied when compiling and analysing baseline data for Indigenous communities is the variance that can emerge between what the data indicates and what Indigenous communities themselves perceive or aspire to. As Taylor, Bern and Senior explain:

... while social indicators report on observable population characteristics, they reveal nothing about more behavioural population attributes such as individual and community priorities and aspirations for enhancing quality of life— indeed the whole question of what this might mean and how it might be measured in an Aboriginal domain is only just beginning to be addressed.<sup>149</sup>

Reliable data is essential. However, the gathering of facts and statistics, important as they are, must not be a substitute for action. Nor should this become a substitute for meaningful Indigenous participation and consultation. Although the task of establishing community baseline data will assist in evaluating interventions, it should not be *relied* upon as the primary the basis for the development and modification of Indigenous policy.

The frequency with which some Indigenous communities are ‘measured’ is also of concern. This can be very frustrating and exhausting for the communities involved, as well as the wider community, all of whom want to see significant on-the-ground progress as quickly as is reasonably possible. This sort of frustration became evident at the November 2006 Senate Estimates hearings.<sup>150</sup> I certainly hope that the community profiles are not an excuse for lack of action, nor that they draw resources away from initiatives that might directly address Indigenous disadvantage.

It is unfortunate that many of the senior bureaucrats involved in Indigenous affairs at this juncture do not have the corporate or historic knowledge to inform policy development. It is also unfortunate that the huge cost of this exercise and other ‘new innovations’ will be attributed to Indigenous affairs spending reinforcing the government’s claims of significant input with minimal outcomes.

I am also concerned by the thinking behind the selection of communities for special attention, and whether there is a tendency for the focus to move from one community to another before the first community has seen real improvements. Indeed, the Chief Minister of the Northern Territory, while welcoming the federal government’s proposals in respect of Galiwin’ku, has expressed such a concern:

We have received a proposal from the Australian Government for what is called an ‘intensive intervention’ in Galiwinku. I have given a commitment to the federal government we will work with them on that, that is fine. However, while I endorse that initiative, I believe that the priority for such intensive intervention is the community of Wadeye. It is our largest Aboriginal community and, for the last three years, it has been the subject of the COAG trial.

149 Taylor, J., Bern, J. and Senior, K.A., *Ngukurr at the Millennium: A Baseline Profile for Social Impact Planning in South-East Arnhem Land*, Centre for Aboriginal Economic Policy Research (CAEPR) Research Monograph No18, 2000, p6.

150 See for example comments by Senator Adams, member of the Senate Committee on Community Affairs, *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, 2 November 2006, pCA44. “I find it very, very strange that you have to now go and employ consultants to get the data about dealing with these communities. It just is incredible. There have been trials, trials and trials, and I think you will find that the Aboriginal communities are saying, ‘Gosh, not another survey! We are not being researched again!’ This is just a disgrace.” Available at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.



While we welcome Galiwinku – that is terrific – we do not want the federal government’s attention taken away from Wadeye. It has been a COAG trial. We cannot say, because the outcomes we wanted in three years had not been achieved: ‘Okay, Wadeye, let us look somewhere else’. What I am saying to the Indigenous Affairs Minister is: welcome, Galiwinku, welcome the work we are doing together on Alice Springs, particularly on the town camps, but important to this Territory and our future is Wadeye.<sup>151</sup>

The federal government’s tendency to deliver important policy decisions in Indigenous affairs as a *fait accompli* – even to territory and state governments – raises serious concerns about the ability of Indigenous communities to negotiate as equal partners in the many agreement making processes that have been introduced with the new arrangements.

Constructive engagement with Indigenous communities and good faith negotiations are critical to the successful operation of the principle of mutual obligation.

However, there are perceptions that in some instances, the government’s application of the principle of mutual obligation has slipped into a coercive mode with Indigenous communities and territory administrations alike.<sup>152</sup>

For example, in Galiwin’ku, the reward offered to the community for agreeing to lease land in the Indigenous township on a 99 year basis will be a significant investment in housing. The Minister, Mr Brough, explained the proposed deal in the following terms:

Around fifty houses will be built and real jobs provided, if the community is safe and signs up to full school attendance, a no-drugs no-violence policy *and agree to a 99 year lease* to support home ownership and business development opportunities.<sup>153</sup>  
[emphasis added]

Similar concerns about coercion have been expressed in respect of the Tiwi Islands where there is a concern that the federal government will not deliver on a \$10 million funding commitment for a new boarding school if the community rejects a proposed 99 year lease.<sup>154</sup>

If such deals are being proposed they may well put Australia in breach of its international obligations in respect of human rights. Given the parlous housing conditions at townships such as Galiwin’ku, this arguably could be seen as a form of inducement and contrary to the principle of free and informed consent. To sign away valuable rights in land for 99 years is a matter which should require careful consideration and independent expert legal advice.<sup>155</sup>

151 Martin, C., (Northern Territory Chief Minister and Minister for Indigenous Affairs), *Hansard*, Question Time, 13 June 2006, available online at <http://notes.nt.gov.au/lant/hansard/hansard10.nsf/0/19638dd5f6e96927692571b60000908d?OpenDocument&Click> accessed 19 January 2007.

152 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), *Alice Springs Town Camps and Itinerant Populations – NT and Local Politicians Can’t Walk Away from Solutions*, Media Release, 25 August 2006. See also ABC news item: *Federal Government can negotiate with Indigenous leaders without NT: Brough*, 9 November 2006.

153 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), *New Aboriginal Land Deal for Galiwin’ku*, Media Release, 19 June 2006.

154 The Australian, ‘Island “held to ransom” over land’, *The Australian*, 9 November 2006.

155 To rely on the relevant Land Council may not be sufficient for this purpose.



Although the underlying title stays with the traditional owners, in the circumstances such arrangements potentially can be the *de facto* equivalent of a transfer of freehold title. I am concerned that if agreements are made as a result of inducements, and where there is a clear power imbalance, we may be getting towards a situation that could be characterised as expropriation of Indigenous land.<sup>156</sup>

## **Summary: The challenges of achieving equitable access to mainstream services for Indigenous peoples**

This first section of the chapter has provided an overview of the challenges facing the government in achieving equitable access to mainstream services for Indigenous peoples. There are two key elements to the government's approach to achieving this.

Firstly, individual mainstream departments are endeavouring to adapt existing services so they better meet the needs of Indigenous peoples. A good example here is the government's proposal to abolish IECs and CDEPs in urban and major regional centres and to steer Indigenous job seekers into mainstream jobs using employment brokers. This raises the fundamental question of whether mainstream services can be sufficiently *adapted* to both address the needs of Indigenous Australians, and respect and accommodate their cultural differences. It also raises the question of why this has not happened in the past and what strategies are going to be put in place to ensure that it will happen into the future.

The second and larger element of the government's approach to improving Indigenous peoples' access to mainstream services is achieving a more coordinated and effective 'whole of government' response. This involves a major reorganisation of the way the federal bureaucracy deals with Indigenous affairs so that there are better linkages between mainstream programs and Indigenous specific services. It also involves reaching agreement with the states/territories on respective roles and responsibilities in addressing Indigenous disadvantage and service delivery. This has been the Government's policy focus since the new arrangements were introduced in 2004, and hence is the major focus of this chapter.

Absent from the Government's approach to harnessing the mainstream is the participation of Indigenous peoples. I continue to have serious concerns that Indigenous Australians have largely been left out of the government's equation. Where they are consulted on legal and policy developments, it is rushed, ad hoc and often tokenistic. But all too frequently major policy decisions, such as the abandonment of the COAG trials, are made and implemented without Indigenous input, knowledge or consent.

Two years on from the introduction of the new arrangements, we are yet to see significant improvements in Indigenous levels of disadvantage – whether it be in relation better access to mainstream services, or economic independence. I am the first to acknowledge that improvement on these fronts will take time and we need more and better data to make these evaluations with any confidence.

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156 This issue is discussed at length in the *Native Title Report 2006*, particularly chapter 2.





However, what does concern me is that the government has not bedded down its policy direction for Indigenous affairs. This is not only destabilising and confusing for Indigenous peoples, it is diverting valuable resources from producing changes on the ground that will improve the daily lives of Indigenous Australians. Indigenous peoples, governments and other key stakeholders have to get the policy foundations right before new directions are taken.

## Part 2: 'Harnessing the mainstream' through the new arrangements for Indigenous affairs

The new arrangements for Indigenous affairs have a number of key elements that can contribute to harnessing the mainstream. In this part of the report I will examine the role of each of these building blocks in terms of how they currently operate and how they could potentially contribute (or contribute more effectively) to this objective.

These key elements are as follows:

- Regionally focussed service delivery through Indigenous Coordination Centres, solution brokers, agreement making processes and 'intensive interventions';
- Engagement processes with Indigenous peoples;
- The role of the Office of Indigenous Policy Coordination; and
- Monitoring and evaluation mechanisms.

Regionally focussed service delivery: Indigenous Coordination Centres, solution brokers, agreement making processes and 'intensive interventions'

A central component of the new arrangements is the development of a whole of government machinery for service delivery that is regionally based and which prioritises agreement making processes with Indigenous communities. Information about these processes indicates that the government clearly intends them to play a critical role in 'harnessing the mainstream'.

### • Indigenous Coordination Centres and solution brokers

Indigenous Coordination Centres (ICCs) are designed to be the focal point of the new relationship being forged with Indigenous communities. They replace ATSI Regional Offices. According to the Minister, Mr Brough:

Our Indigenous Coordination Centres (ICCs) are the frontline of the Government's efforts. All Australian Government agencies with major responsibilities for Indigenous programs are required to work together. This is the new single face of government.<sup>157</sup>

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157 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), *Indigenous Affairs Arrangements*, Foreword, Department of Families, Community Services and Indigenous Affairs, Canberra, 2004, p.v.



OIPC has defined the specifics of the ICC role as follows:

Each of these ICCs coordinates Australian Government program funding and services to local Indigenous people. ICCs will coordinate Indigenous-specific programs in their regions. They will work with local Indigenous communities and negotiate regional and local agreements for effective partnerships based on shared responsibility.<sup>158</sup>

The role of ICCs in respect of *Indigenous-specific* programs is clear enough, although there are significant issues with the workability of this model of service delivery and coordination. Gray and Sanders note, for example, the view held by heads of government departments that ICCs present 'some very significant governance and skill challenges'.<sup>159</sup>

However, the role of ICCs in respect of the objective of removing barriers to mainstream services is less clear. Do ICCs have a mandate to involve themselves in issues of mainstream service delivery, especially where those services are provided by state and territory authorities?

ICCs are the federal government's primary point of contact with Indigenous communities for the development of local and regional agreements. These include: Shared Responsibility Agreements (SRAs), Regional Partnership Agreements (RPAs) and Regional Indigenous Engagement Arrangements. ICCs are also responsible for regional coordination with state and territory government activities.

Accordingly, the ICC structure is well placed to develop complementarity between Indigenous-specific and mainstream programs. For example, ICCs could negotiate with communities to mix and match mainstream and specific programs to better meet their needs. If a particular agency is attempting to develop complementarity in its programming between its mainstream programs and its Indigenous-specific programs, the culture and resources of an ICC are potentially helpful.

The *Social Justice Report 2005* discussed the potential for the ICC structure to be utilised to improve regionally focused service delivery for Indigenous health. It noted the potential for the whole of government structure at the regional level to provide an improved focus on the social determinants of health, which could complement health specific interventions.<sup>160</sup>

Last year's report noted that in the first twelve months of the new arrangements, the Department of Health and Ageing had not played a significant role in the roll out of the new arrangements, did not have a significant presence in ICCs and had 'limited capacity to influence the strategic directions underpinning engagement at the regional level and through agreement making processes such as SRAs'.<sup>161</sup>

158 OIPC, *Indigenous Coordination Centres – Questions and Answers*, at <http://www.Indigenous.gov.au/icc/qa.html> accessed 19 January 2007.

159 Gray, W. and Sanders, W.G., *Views for the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs*, Centre for Aboriginal Economic Policy Research (CAEPR), Discussion Paper no 282/2006, p13.

160 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p42-46; p86-94.

161 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p46.



I noted the failure of the new arrangements to build on significant progress and experience in the health sector, or to develop effective relationships with the extensive local Aboriginal Community Controlled health sector.<sup>162</sup> In particular, I expressed concern at the failure to:

- Apply the methodologies and lessons learned from the health sector;
- Build upon the significant community resources and capacity that exists through the Aboriginal Community Controlled health sector; and
- Build upon the findings and recommendations of the regional planning processes conducted under the state-wide Aboriginal Health Forums.<sup>163</sup>

And as a consequence, I noted that there is a 'disconnect between existing programs relating to Aboriginal and Torres Strait Islander health and the whole of government approach adopted through the new arrangements.' This was despite the 'clear inter-connections between the issues' and the recognition by governments of the need to adopt a holistic response to achieve lasting improvements in Indigenous health.<sup>164</sup>

In meetings with senior executives of the OIPC, the potential to utilise the existing processes within the health sector to improve the performance of the new whole of government machinery was discussed. A senior executive stated that they would be 'mugs' if they did not pay attention to this and begin to utilise the existing resources, such as regional health planning forums. There is, however, no evidence that any such links have been developed in the year that has passed since this discussion and since the findings of last year's *Social Justice Report*. This remains a major failing of the ICC process, and accordingly an ongoing failure to meet the objectives of the new arrangements.

Taking a whole of government approach to service delivery through ICCs is a major challenge. It can cut across well established systems of budget and program control, delivery and accountability arrangements and, simply, differing departmental cultures. There is, predictably, a degree of inertia in the system. At least some experience from the COAG trials suggests that it is very difficult to change established organisational patterns of service delivery planning and activity.<sup>165</sup> Experience in the Wadeye COAG trial indicates that communities and departments can quickly lapse back into direct negotiations and funding arrangements.<sup>166</sup> In other words, the old silo-mentality can quickly re-assert itself.

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162 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p46.

163 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p46.

164 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p46.

165 Gray, W. and Sanders, W.G., *Views for the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs*, Centre for Aboriginal Economic Policy Research (CAEPR), Discussion Paper no 282/2006, p13.

166 For example, Gray found evidence that the partners in the COAG trial began to initiate funding applications and responses that were not part of the agreed processes under the SRA. See Gray, W. and Sanders, W.G., *Views for the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs*, Centre for Aboriginal Economic Policy Research (CAEPR), Discussion Paper no 282/2006, p8.



OIPC has indicated that each regional ICC has now commenced developing *regional priority plans* which will 'identify the key issues (with measures and timeframes) that the ICC will focus on in a 12 month period.'<sup>167</sup> These plans:

cover work done through a variety of mechanisms, including RPAs and SRAs (both single issue and more comprehensive), strategic intervention arrangements and community in crisis interventions (sic.).

The regional priority documents are endorsed by Australian Government agency state manager groups that meet regularly with ICC managers in each state and territory. These in turn link back to national priorities. This ensures the commitment of all necessary Australian Government agencies to a particular regional priority. The ICC Managers then report regularly to the state manager group on progress with the priority initiatives.

The priority plans are a guide only and do not attempt to cover all the activities in which an ICC may be involved within the year, rather they highlight the most significant community and government work in which the ICC is likely to be involved.<sup>168</sup>

The *regional priority plans* process is a new development. There is no public information about this process. Given the prominence attached to harnessing the mainstream, it can be expected that the regional priority plans for many regions will provide greater detail about how the government intends to progress the objective of improving mainstream accessibility. This would particularly be expected for those regional priority plans for ICCs that are based in urban centres.

The regional priority plans are internally focused on how the ICC organises its business. It is not intended to establish the priorities for Indigenous communities, but instead form the basis for how different government departments will collaborate through the ICC structure. Clearly, the priorities for government coordination cannot be divorced from the priorities of Indigenous communities. It is artificial and unrealistic to suggest otherwise.

I am concerned that there is a disconnect between the creation of such regional priority plans and Indigenous engagement and participation in determining what the priorities for a region are. The experiences and views of Indigenous peoples and communities appear to have been given little consideration to date, which is a critical oversight. This absence has the potential to impact on the effectiveness of program delivery (such as through an ICC) and on the effectiveness of whole of government coordination.

One of the government's responses to the challenge of making a whole-of-government approach work has been the appointment of *solution brokers*. Solution brokers are staff from different government departments, usually located in ICCs or state offices/departments, which progress the whole of government and whole of agency approach of the new arrangements. The OIPC has described their role as follows:

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167 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of Social Justice Report 2006*, 22 December 2005, p5.

168 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of Social Justice Report 2006*, 22 December 2005, p5.



Solution brokers should have a detailed understanding of the *full* range of programmes and services in their agency, particularly those impacting on Indigenous Australians, and understand how to link these various programmes – or to suggest how they might need to be adapted so they respond to community circumstances and deliver better outcomes.<sup>169</sup>

Solution brokers should have the skills to link programs of their own and other agencies to generate innovative, flexible solutions to issues identified by communities. They are meant to support ICC managers in implementing a whole of government response to communities' needs including assisting to negotiate SRAs. As I have noted elsewhere, this:

new brand of bureaucrat, a 'solution broker', navigates through all the levels and sectors of government to negotiate, as their name suggests, a solution. .... it is intended that as many of these solutions as possible are to be delivered according to the principle of mutual obligation.<sup>170</sup>

Solution brokers have, for example, been appointed by the Department of Employment and Workplace Relations (DEWR) to every ICC.<sup>171</sup> The role of DEWR solution brokers is to:

- Represent DEWR in the implementation of the Australian Government's collaborative approach to Indigenous program management and service delivery;
- Contribute to the development and implementation of Regional Partnership Agreements (RPAs) and Shared Responsibility Agreements (SRAs) through ICCs;
- Identify gaps/duplication in service delivery, areas for improvement and opportunities for innovation, coordination and collaboration;
- Negotiate and liaise within DEWR and with other government agencies, external organisations and local Indigenous communities to promote employment and enterprise development opportunities for Indigenous Australians; and
- Prepare briefings, submissions, reports, reviews, contractual documentation, risk management plans, business plans and general correspondence as required.<sup>172</sup>

Clearly it is the intention that the solution broker looks for complementarity between Indigenous specific and mainstream programs, and that they then prioritise those programs that are best suited to meeting the particular needs of each community.

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169 Office of Indigenous Policy Coordination, Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner (Email), 15 June 2005.

170 Calma, T., Aboriginal and Torres Strait Islander Social Justice Commissioner, *Evaluating the external forces which exert an influence on government policy direction*, Speech delivered at Collaborative Indigenous Policy Development Conference, Brisbane 27-28 June 2006.

171 This is according to the Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005 p 6. However, it appears that not all ICCs may, in fact, have solution brokers.

172 Department of Employment and Workplace Relations, *CDEP Guidelines 2005-06: Building on Success*, p25. Available at [http://www.workplace.gov.au/NR/rdonlyres/DA6EA99F-EB21-4C90-810F-405D3AC49A51/0/CDEP\\_Guidelines2005\\_06.pdf](http://www.workplace.gov.au/NR/rdonlyres/DA6EA99F-EB21-4C90-810F-405D3AC49A51/0/CDEP_Guidelines2005_06.pdf) accessed 13 February 2007.



Other departments and agencies have also placed solution brokers in ICCs, although as last year's *Social Justice Report* noted, they have not been placed in every ICC. This is for a combination of reasons, including difficulties experienced by some departments in identifying and placing sufficiently senior and experienced staff as ICC solution brokers. Instead, they have been placed in other offices such as a primary regional office or a state office on a 'hub and spoke' model.<sup>173</sup>

To what extent this reflects a retreat from the model of a solution broker in every ICC remains to be seen. Indeed, ICC staffing seems to have been a problem wider than the placement of solution brokers, and there may have been a reduction in staffing levels in ICCs, particularly at the more junior levels, by some agencies.<sup>174</sup>

The role of solution broker is potentially valuable. However, it takes a special kind of person, with both the motivation and the skill set to carry out this role successfully. Not only does the solution broker need to know what is available from the government side, he or she needs to be able to interact with the Indigenous community on a constructive basis and also be able to deal with the non-government sector as appropriate. In this regard, I have consistently expressed concerns at the recruitment practices adopted through the new arrangements to date because they do not sufficiently recognise that the ability to communicate effectively with Indigenous communities is an important and essential skill and an integral component of all merit based selection processes.<sup>175</sup>

The potential role of solution brokers is discussed further below in relation to the Shared Responsibility Agreement making process.

### • Reducing 'red tape' through funding processes

Another of the government's responses to the challenge of making a whole-of-government approach work better has been to explore ways of reducing the 'red tape' that acts as a barrier to Indigenous peoples' access to mainstream services. A particular focus has been on reducing the red tape associated with accessing funding for Indigenous programs. Complex, multiple forms; difficult bureaucratic processes; inflexible service arrangements; lengthy submissions and reports and persistent changes to policy and program guidelines have all contributed to Indigenous peoples being unsure of what services are available, and how they can be accessed.

The Secretary of the Treasury recently acknowledged the bureaucratic burden associated with the new arrangements in Indigenous affairs:

I was struck, during a visit to one of the Cape York communities last year, that the principal concern of its leaders was the red tape burden of reporting and compliance arrangements arising from a multiplicity of government intervention programmes and delivery agencies. Compliance with red tape was absorbing all of

173 See Senate Community Affairs Legislation Committee, 2006-07 Budget Estimates, Question No.071, p 79.

174 Senate Estimates, Hansard, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, Canberra, 2 November 2006, pCA11-12. Available at <http://www.aph.gov.au/hansard/senate/committee/S9783.pdf> accessed 13 February 2007.

175 See for example Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p166-169.



the administrative capacity of the community. Reducing the red tape burden on indigenous communities must be a national reform priority.<sup>176</sup>

Devising strategies to reduce red tape has been a particular focus of ICCs. This has led to the introduction of the electronic Submission (eSub) process for organisations applying for Indigenous program funding. ICCs also provide information on available programs and funding priorities to applicants.

eSub enables Indigenous community organisations to download one funding application even when requesting funding for multiple projects or from more than one agency. The completed form or an eSub disk is mailed or electronically submitted to the closest ICC for assessment.<sup>177</sup>

Whilst this has undoubtedly streamlined and simplified the process for Indigenous organisations to access funding, the government is aware that the problems created by red tape are more extensive. Addressing these problems requires more than providing web-based solutions – as the government found out in May 2006 when Morgan Disney & Associates presented OIPC with their report entitled *A Red Tape Evaluation of Selected Indigenous Communities* (hereafter the Morgan Disney report).<sup>178</sup>

The overall conclusion of the Morgan Disney report was that:

*actual* red tape is less than *perceived* red tape, and that many of the issues raised as examples of red tape, are in fact about relationships, program management practices, and capacity of government agencies, ICCs and funded organisations. [However,] the expressed frustration, of both Indigenous organisations and ICC staff ... around having to take time away from urgent, daily service delivery, or operational matters, to comply with conditions of grants in reporting was considerable.

... [Indigenous organisations dispute] whether much of what is currently required [in terms of reporting] actually assists governments or their governing bodies to manage risk, to assess what outcomes are being achieved, and therefore to account well for the use of funds.<sup>179</sup>

Funding procedures and conditions that the report identified as contributing to levels of frustration and perceptions red tape included:

- The reporting burden of small grants is virtually equal to that of much larger grants. Even though there is a smaller risk, small grants still have the same reporting frequency and the same number of performance indicators for which data has to be collected.

176 Henry, K., (Secretary of the Treasury), *Managing Prosperity*, Address to the 2006 Economic and Social Outlook Conference, Melbourne, 2 November 2006, p6, available at [http://www.treasury.gov.au/documents/1183/PDF/Managing\\_Prosperty.pdf](http://www.treasury.gov.au/documents/1183/PDF/Managing_Prosperty.pdf) accessed 19 January 2007. See also the evaluation of the Wadeye COAG trial, as discussed in section one of this chapter. It noted an increase in red tape as a result of the whole of government efforts as part of the trial.

177 Australian Government, e-Sub online introduction, available at <https://www.indigenous.gov.au/eSub/PublicPages/IntroInformation.aspx> accessed 14 February 2007.

178 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006.

179 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p6-7.



- 66% of grants from programs that continue year after year have to be re-applied for annually, even though there is little variation in risk or circumstances.
- Funding departments appear to make little use of the information in the reports they receive from grant recipients, including information about the financial well-being of recipient organisations.
- Performance indicators are frequently not related to the activity being funded.<sup>180</sup>

The report also identified adverse 'organisational cultures' as another source of frustration and perceived red tape. For example, some departments suffer from a 'rigid compliance' culture. Rather than striving to help communities achieve their goals and build up their organisational capacity, these departments insist on compliance with 'less than sensible reporting requirements' or 'standard performance indicators which do not match the project'.<sup>181</sup>

To address both the actual and perceived burden of red tape on Indigenous communities, the Morgan Disney report recommends a 'paradigm shift' at the federal level to bring about organisational and cultural change.<sup>182</sup> The alternative paradigm proposed is based on the concept of mutual responsibility, a concept that already underpins the government's approach to Indigenous affairs. The major objective of this paradigm shift would be to move the focus of funding Indigenous programs from one of achieving compliance, to one that is measured by beneficial outcomes in Indigenous communities.

The Morgan Disney report characterises the concept of mutual responsibility in a manner that emphasises mutual trust, respect and accountability between funding agencies and funded organisations. In order to ensure that the funding of Indigenous organisations results in beneficial outcomes for communities, the report suggests that there needs to be a general acceptance of the following premises by both parties:

- Organisations, on the whole, want and do what they believe is best for their communities, and similarly governments want to assist communities to achieve their potential;
- Risks are best managed when these are assessed together by the funding agency and the funded organisation, and jointly managed;
- Working together is more likely to achieve agreed and better outcomes for communities;
- Accountability for outcomes requires a mutual accountability between funding agencies and funded organisations based on respect and capacity building of Indigenous organisations; and

180 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p7.

181 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p8-9.

182 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p10.





- Governments have a responsibility to monitor the use of public funds and this can be done well, in partnership with Indigenous organisations and communities.<sup>183</sup>

According to the Morgan Disney report, this paradigm shift would be a relatively low cost option and would not require 'massive change'. Rather there would be a need for 'change management, organisational and cultural change and training.'<sup>184</sup> In fact, many of the government's current overarching policy strategies would be consistent with, and quite critical to the success of this paradigm shift. For example, it would be critical to maintain:

- An ongoing commitment to finding whole of government solutions to funding and supporting Indigenous organisations and communities, and to ways of working in partnership;
- A commitment to negotiating and focussing on accountability at the outset to ensure outcomes are achieved;
- A commitment to capacity building in Indigenous communities and organisations; and
- The development of the role of ICCs and OIPC at the regional and national levels, to improve and coordinate whole of government and cross government efforts to support and fund organisations, and reduce the administrative burden on Indigenous organisations.<sup>185</sup>

The Morgan Disney report is clear in the need for this paradigm shift to be led by senior elements of the Indigenous affairs bureaucracy. For example, it recommends that:

- The Secretaries Group on Indigenous Affairs establish a service charter and issue a leadership statement;
- OIPC examine practices within the ICCs and work with other departments to improve funding mechanisms and processes; and
- State/territory Managers of Australian Government departments provide 'a solid foundation' for the paradigm shift to take root.<sup>186</sup>

## • Shared Responsibility Agreements

Shared Responsibility Agreements (SRAs) have been a prominent feature of the work of ICCs and solution brokers at the regional level over the first two years of the new arrangements. SRAs are defined as:

... agreements between the government and Indigenous communities or groups, to provide a discretionary benefit in return for community obligations. These discretionary benefits may take the form of extra services, capital or infrastructure

183 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p82.

184 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p10.

185 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p83.

186 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p10.



over and above essential services or basic entitlements. They can involve all or some of the people in a residential community.<sup>187</sup>

The *Annual Report 2004-05* of the Secretaries' Group on Indigenous Affairs observed that:

A central element of the Australian Government's new approach is the voluntary development with Indigenous families and communities of Shared Responsibility Agreements (SRAs).<sup>188</sup>

Through SRAs, the government seeks to establish a mutual obligation basis for assistance to Indigenous communities. SRAs are intended to respond to the identified priorities of particular communities or family groups. In return for discretionary benefits from government, communities make specific commitments in order to achieve their identified goals. The obligation on the community or family is often in the form of behavioural change (for example ensuring children attend school).<sup>189</sup> SRAs also meet the objective of the new arrangements of direct engagement with Indigenous peoples.

As reported in last year's *Social Justice Report*, OIPC had identified a key role for SRAs in achieving improved access to government services, including in urban locations:

There are a number of mechanisms under the new arrangements that will facilitate improved service delivery to Indigenous people living in non-remote communities, including SRAs...

As part of the new arrangements ICCs have been working with Indigenous people and communities in both rural and urban areas to identify their needs and priorities as well as develop Shared Responsibility Agreements (SRAs). SRAs can be used in both rural and urban contexts, either as a mechanism through which disadvantage can be tackled directly, or to complement and inform the delivery of an existing service. They are also a useful mechanism through which Government can respond to community identified needs by linking programs and closing gaps in current service delivery. There are already a number of examples of SRAs in urban areas.<sup>190</sup>

The 'directness' of the SRA process is seen as worthwhile in itself as a form of engagement and because it potentially lessens the influence of 'gatekeepers', including Indigenous organisations.

Although accounting for a relatively small share of total Indigenous program funding, SRAs have been given considerable prominence by the government. In the national media, they have come to embody the government's commitment to partnership, local agreements and flexible 'joined-up' government service

187 Secretaries' Group on Indigenous Affairs, *Shared responsibility agreements*, Bulletin 1, April 2006.

188 Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p9. Available at [http://oipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.

189 Australian Government, Indigenous Portal, *SRA and RPAs Website* available at <http://www.Indigenous.gov.au/sra.html> accessed 19 January 2007.

190 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p178-79. The report notes (p179), however, that while 'there are some SRAs in urban contexts' they are, however, very few in number. The SRA process has not, to date, been a significant tool in harnessing the mainstream.'



delivery. There are now over 190 of these agreements in place.<sup>191</sup> The responses of Indigenous communities that have entered into SRAs are considered in detail in the next chapter of this report.

However, the question remains: are SRAs an effective tool to 'harness the mainstream'? Do they achieve synergies between Indigenous-specific and mainstream programs that improve the outcomes for communities. Or, are SRAs really just a tool for tailoring Indigenous-specific programs to the needs of the community concerned?

In last year's *Social Justice Report* I wrote that the SRA process had not, on the evidence to date, been a significant tool in harnessing the mainstream.<sup>192</sup> With a truly flexible approach one might expect **mainstream funds to be deployed through SRAs** to meet the expressed needs of the community. I commented that ultimately, if funding for SRAs remains basically Indigenous specific expenditure 'then SRAs will remain a supplementary funding source and will play a similar role to that of ATSI program funding.'<sup>193</sup>

There are some examples of SRAs which seek to use Indigenous-specific funding to reduce barriers to mainstream services. For example:

- The Areyonga community in Central Australia developed the *Areyonga Bus and Oval SRA* to reduce barriers to mainstream services that were caused by the community's remote location.<sup>194</sup> The Areyonga community identified their priority need as being 'improved access to educational, specialist medical, cultural, sporting and recreational opportunities in Alice Springs and the region.'<sup>195</sup> Among other things, the SRA provided the community with a bus.
- The Bagot community in Darwin entered into the *Bagot SRA* to reduce barriers to mainstream services that were caused by the community's lack of knowledge of how to access services. The Bagot community, although right in Darwin and having access to a strong labour market, operates like a discrete Indigenous community. It identified its priorities including the development of a community plan. It did not have the skills or expertise to develop a community plan so wanted a Community Development Officer position with two locals trained to do the work. Among other things, the SRA provided the community with a Community Development Officer and a package of training opportunities.

191 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p178-9.

192 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p179.

193 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p179.

194 OIPC, *Areyonga Bus and Oval SRA*, June 2005, available at <http://www.indigenous.gov.au/sra.html#sra> accessed 19 January 2007.

195 OIPC, *Areyonga Bus and Oval SRA*, June 2005, available at <http://www.indigenous.gov.au/sra.html#sra> accessed 19 January 2007.



- The Sarina Aboriginal and Torres Strait Community in Queensland through the Mudth-Niyleta Aboriginal and Torres Strait Islander Corporation developed the *Sarina Economic Participation Strategy SRA* to reduce barriers to mainstream employment opportunities that were caused by the community's reliance upon CDEP. The Sarina community identified their priority need as being 'wanting to stay in the community and be a part of the mainstream labour market.' Among other things, the SRA provided the community with an Indigenous Community Volunteer (ICV) who helped to prepare the Economic Participation Strategy. This is seen to be the first of a number of SRA's that will be entered into by the community.
- The Palmerston Indigenous Village developed the *Palmerston Community Plan SRA* to reduce anti-social behaviour in the community and create greater engagement with mainstream activities. Among other things, the SRA provided the community with a Community Development Officer who will work with the local council to develop and implement a community plan.

These SRAs provide the *potential* to achieve improved access to mainstream services over time.

A year further into the new arrangements, though, and it appears that the majority of SRA funding continues to come from Indigenous specific expenditure and not mainstream programs. The potential remains, however, for SRAs to build the necessary linkages between Indigenous specific services and mainstream services.

Solution brokers are ideally placed to create these linkages.

Chapter 3 of this report contains the results of a survey of Indigenous communities and organisations which have entered into SRAs. The survey results show that solution brokers are indeed critical to Indigenous community satisfaction with SRAs. The survey found that:

- The biggest single reason that an SRA was initiated was at the suggestion of the government, usually through an ICC or solution broker;
- In 57% of cases, the ICC or solution broker were integrally involved in the development of the SRA (although survey respondents generally identified this participation as by 'ICC staff' rather than by 'solution brokers'); and
- Communities that stated they had received no assistance from the ICC in developing the SRA had much lower rates of satisfaction with the SRA process.<sup>196</sup>

However, the survey also confirmed the potential for SRAs to be a tool to further the holistic, longer term priorities of communities. The survey found that a majority of respondents defined their SRA as being about multiple issues, and not being restricted to a single issue. This suggests a willingness to look to more comprehensive arrangements that tackle the priorities identified by communities.

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196 For the full survey results see further Chapter 3 of this report.



The survey also identified disappointment from communities that SRAs did not provide this broader, more comprehensive focus. Concern was expressed that the one off nature of the funding was not capable of producing sustainable improvements in communities, and could lead to disillusionment from communities about engaging with government – the very opposite of the intended impact.

- **Comprehensive SRAs, Regional Partnership Agreements and 'intensive interventions'**

Regional agreement making processes were intended from the start to be an integral component of the new arrangements. The principal tool that has been identified for this purpose is the Regional Partnership Agreement (RPA). OIPC has described the nature and purpose of RPAs as follows:

Regional Partnership Agreements provide a mechanism for setting out a coherent government investment strategy across a region, eliminating overlaps or gaps, and promoting coordination to meet identified priorities for the region. Where States and Territories have agreed, RPAs may also incorporate State and Territory investment. RPAs will accord with the Framework Principles for Government Service Delivery agreed by the Council of Australian Governments in June 2004.<sup>197</sup>

SRAs were originally intended to be 'more detailed documents operating at a family or community level'<sup>198</sup> and accordingly were not intended to provide a mechanism for developing regional plans and strategies.

However, there has been an evolution in thinking about SRAs towards their expanding in focus and duration. The Secretaries' Group on Indigenous Affairs has commented that this evolution towards a 'comprehensive SRA' approach:

describes the more intensive work that we will do with Indigenous communities that goes beyond addressing single issues. It will require strong partnerships between communities and government at all levels, with business and our provider networks.<sup>199</sup>

According to the Secretaries' Group, this approach will be implemented:

in locations where communities are ready and willing to build on what they have already achieved – to work with us towards their longer term goals, covering more community priorities overtime (we are calling this a more comprehensive approach to SRAs, but it can also be done through RPAs).<sup>200</sup>

This evolutionary approach appears to deal with the potential for SRAs to be *ad hoc*, limited in focus, of short duration and uncoordinated with the needs of the wider community or region. The rationale of moving towards a more comprehensive approach has been set out as follows:

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197 OIPC, *New Arrangements in Indigenous Affairs*, p40. Available [http://www.oipc.gov.au/About\\_OIPC/new\\_arrangements.asp](http://www.oipc.gov.au/About_OIPC/new_arrangements.asp) accessed 15 February 2007.

198 OIPC, *New Arrangements in Indigenous Affairs*, p32. Available [http://www.oipc.gov.au/About\\_OIPC/new\\_arrangements.asp](http://www.oipc.gov.au/About_OIPC/new_arrangements.asp) accessed 15 February 2007.

199 Secretaries' Group on Indigenous Affairs, *A Comprehensive Approach to Indigenous Reforms*, Bulletin 3/2005. Available at <http://www.apsc.gov.au/indigenousemployment/bulletin0305.pdf> accessed 15 February 2007.

200 Secretaries' Group on Indigenous Affairs, *A Comprehensive Approach to Indigenous Reforms*, Bulletin 3/2005. Available at <http://www.apsc.gov.au/indigenousemployment/bulletin0305.pdf> accessed 15 February 2007.



While it is important not to underestimate the impact of single-issue SRAs – particularly in smaller and remote communities as the first step – progress will always be limited in any single area unless factors in related areas are addressed. For example, only limited success can be expected in the area of employment (even if real job opportunities exist), if education and health issues are not also addressed.<sup>201</sup>

A distinction continues to be made between comprehensive SRAs (as relating to one community) and RPAs. Thus, for communities which are able to take advantage of a wider approach to agreement-making:

This might mean they want to take a whole of community or even a cross community approach – here they might start with a comprehensive (multi issue) SRA if it's just for one community, or with an RPA if they want to work across several communities in a region.

RPAs tend to set out higher level community goals and the outcomes to be delivered. However, as they progress, they should include SRAs with clear shared responsibilities for local communities or groups which support the objectives of the RPA.<sup>202</sup>

It is clear that there may be some overlap. Gray and Sanders suggest 'perhaps the distinction between SRAs and RPAs are becoming rather blurred anyway'.<sup>203</sup>

There is also the question of where the comprehensive SRAs or RPAs will fit in the new 'intensive intervention' model (as discussed in Part 1 of this chapter). The intervention model is based on identifying priority communities (which seems to mean in general, communities that are in crisis). Presumably, such communities, if in crisis, are not in the position to negotiate and enter into comprehensive SRAs. A term which has been used to describe the sort of agreements that might be developed in such situations is a 'holistic' SRA, which:

would relate more to those locations where we are planning or have already commenced a joint intervention with a state or a territory where we are attempting at a particular place to deal with a broad range of issues concurrently.<sup>204</sup>

Accordingly, it appears there are now three agreement mechanisms being used which are similar in approach and purpose, and which may overlap. These are RPAs, 'comprehensive SRAs', and 'holistic SRAs'. This proliferation of approaches is not necessarily a problem, but these terms and concepts do need to be thought through carefully to avoid confusion. Nevertheless, the priority in agreement-making lies with avoiding an excess of *ad hoc* and isolated agreements that do not take into account local and regional needs, resources, options for efficient and effective service delivery and meaningful participation of Indigenous partners.

201 Secretaries' Group on Indigenous Affairs, *A Comprehensive Approach to Indigenous Reforms*, Bulletin 3/2005. Available at <http://www.apsc.gov.au/indigenousemployment/bulletin0305.pdf> accessed 15 February 2007.

202 Secretaries' Group on Indigenous Affairs, *A Comprehensive Approach to Indigenous Reforms*, Bulletin 3/2005. Available at <http://www.apsc.gov.au/indigenousemployment/bulletin0305.pdf> accessed 15 February 2007.

203 Gray, W. and Sanders, W.G., *Views for the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs*, Centre for Aboriginal Economic Policy Research (CAEPR), Discussion Paper no 282/2006, p13.

204 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Standing Committee on Community Affairs, Supplementary Budget Estimates, Canberra, 2 November 2006, pCA17. Available at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.



The move towards 'comprehensive' or 'holistic' SRAs seems sensible and timely. Such devices, along with RPAs, could be used to contribute to a regional needs analysis approach in order to map mainstream and Indigenous-specific services together.

The challenge, and it is not easy, is to balance the directness and immediacy of a bottom-up family or community-based approach, through small one or two-issue SRAs, with the efficiencies and effectiveness of coordinated planning and service delivery on a wider community or regional basis.

The potential for 'comprehensive' SRAs has been discussed by the government for some time. It was anticipated that there would be several such SRAs in place during the past financial year, however, these agreements have yet to eventuate.

Accompanying this slow progress in finalising comprehensive SRAs has been the slow pace of finalising RPAs. This is discussed in further detail in Chapter 3 and remains a matter of significant concern. When writing the *Social Justice Report 2005* there was only one concluded RPA to report, the Ngaanyatjarra Regional Partnership Agreement,<sup>205</sup> and OIPC had advised that a number of RPAs were under discussion.<sup>206</sup>

There are now apparently several RPAs that have been negotiated to agreement stage and are awaiting signature by ministers at both the federal and state/territory levels. As well, there appears to be a continuing commitment to RPAs in the context of arrangements to follow on from the COAG trials. As the Associate Secretary of FaCSIA has explained:

If you look at the bilateral agreements we have with several states, you will see a clear intention to move on to replace the trial arrangements with regional partnership agreements that lock in both the Commonwealth and the state or territory jurisdiction to an ongoing commitment.<sup>207</sup>

For example, the intention at Wadeye seems to be to 'transition' the COAG trial into an RPA.<sup>208</sup> These agreements appear to be focussed on the bilateral level.<sup>209</sup> As noted elsewhere in this report, it is not clear what role is anticipated for Indigenous representative organisations in the new regional partnerships to succeed the COAG trials. The Ngaanyatjarra RPA provides a model for appropriate Indigenous participation.

Two further RPAs have recently been signed in November 2006. These are the East Kimberley RPA and the Port Hedland RPA. The Port Hedland RPA has an employment focus to take advantage of opportunities in the minerals sector in the region. The RPA has been developed under a Memorandum of Understanding between the

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205 Regional Partnership Agreement between the Ngaanyatjarra Council (Aboriginal Corporation), the Australian Government, the State Government of Western Australia and the Shire of Ngaanyatjarraku, 12 August 2005.

206 *Social Justice Report 2005*, op cit, p 118-119.

207 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, Canberra, 2 November 2006, pCA39. Available at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.

208 Gibbons, W., *Hansard*, (Associate Secretary, FaCSIA), Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, Canberra, 2 November 2006, pCA39. Available at <http://www.aph.gov.au/hansard/senate/commtee/S9783.pdf> accessed 13 February 2007.

209 Compare to the Ngaanyatjarra RPA which is a 4-way agreement between the Australian Government, the Western Australian Government, the Ngaanyatjarra Council, and the Shire of Ngaanyatjarraku.



Australian Government and the Minerals Council of Australia. The Minister, Mr Brough, has indicated that:

Over the next five years the partners to the Agreement will aim to prepare Indigenous people for the workforce and support the development of Indigenous businesses.<sup>210</sup>

Indigenous partners to the RPA include Bloodwood Tree, Pilbara Meta Maya, Pilbara Logistics and Indigenous Mining Services, and it is to be signed by 14 key players including industry partners such as BHP Billiton Iron Ore, Fortescue Metals, Newcrest Mining as well as Ngarda Civil and Mining. This RPA is profiled as a case study in chapter four of the *Native Title Report 2006*.

Although there has been a considerable delay, it is pleasing to see these RPAs finalised and agreed. It is to be hoped that further RPAs will be agreed to progressively around the country. My Office will monitor developments with new RPAs and similar agreements, including their:

- Arrangements for Indigenous participation in decision-making at all levels;
- Their performance in addressing Indigenous disadvantage; and
- Their progress in realising the goals of the Indigenous peoples of the regions concerned.

## Issues concerning engagement with Indigenous communities

### • The absence of regional representative structures – a flaw in the new arrangements

As already noted on several occasions in this chapter, the need for Indigenous regional representative structures to partner governments in region-based planning and in determining appropriate service delivery arrangements is paramount. Their absence constitutes a significant flaw in the administration of the new arrangements to date.

A somewhat passive approach appears to have emerged on the part of the federal government in facilitating and supporting the emergence of regional representative structures to enable Indigenous peoples to participate in decision-making. This is discussed in detail in chapter 3 of this report.

In announcing the abolition of ATSIC, the government stated its intention to support the creation of a network of regional representative Indigenous bodies to interact with governments.<sup>211</sup> In June 2005, the then Minister for Immigration and Multicultural and Indigenous Affairs had confirmed that the government remained committed to establishing representative bodies at the regional level:

210 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), *Port Headland tackles Indigenous Unemployment*, Media Release, 7 November 2006.

211 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p110.





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.<sup>212</sup>

In the *Social Justice Report 2005*, I reported on the considerable progress that had been made in negotiating regional representative arrangements and structures.<sup>213</sup> I was also able to report that consultations had been conducted across many regions to identify replacement representative structures during the past year, and OIPC had provided funds through the ICCs for Indigenous peoples to convene local and regional meetings to discuss options for new regional representative arrangements.<sup>214</sup>

An overview of progress on a state-by-state basis showed that there were promising developments in determining culturally appropriate regional representative models,<sup>215</sup> although there were gaps and problems with some of the models. I noted that the federal government had not yet outlined in concrete terms how it proposed to support such bodies. I emphasised the need to finalise and operationalise representative organisations where negotiations were largely complete, and to make greater progress in other areas where models had not yet been finalised.

Given the advanced state of discussions a year ago in a number of regions, it is quite remarkable that progress towards recognising regional representative structures has stalled. It appears that the government now sees the principal route to regional engagement structures as being developed around participation in RPAs, rather than separately established representative organisations.

There is an important change in approach from an emphasis on regional *structures*, to regional *processes and agreements*, particularly RPAs. The federal government's preferred new approach is to work in partnership with Indigenous groups, as well as state and territory governments, to establish *Regional Indigenous Engagement Arrangements* (RIEAs). The government has stated that:

The new engagement arrangements are important mechanisms for Governments to engage with Indigenous communities about agreed priority areas for joint effort and promote the principles of partnership, shared responsibility, and self-reliance.<sup>216</sup>

OIPC has set out the parameters for RIEAs as follows:

Clearer parameters have recently been agreed by Minister Brough. These are allowing us to progress RIEA proposals that are consistent with the Australian Government's principles of partnership, shared responsibility and self-reliance, and to provide feedback to communities on proposals that are not consistent with

212 Vanstone, A., (Minister for Immigration and Multicultural and Indigenous Affairs), *Minister announces new Indigenous representation arrangements*, Media Release, 29 June 2005, p1.

213 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p110-111.

214 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p110-111.

215 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p117 and text box on p-112-114.

216 OIPC, *Regional Indigenous Engagement Agreements*, available at [http://www.oipc.gov.au/documents/RegionallIndigenousEngagementArrangements\\_Parameters.pdf](http://www.oipc.gov.au/documents/RegionallIndigenousEngagementArrangements_Parameters.pdf) accessed 4 December 2006.



the Australian Government's objectives. Parameters for Australian Government funding and support include:

- Initial Australian Government funding be capped and limited to one year after which further support be negotiated through RPAs;
- Funds support meeting costs such as travel, but not sitting fees or remuneration;
- State and Territory Governments participate through RPAs or bilateral agreements;
- The Government retains the right to engage directly with communities or other bodies;
- The Government be assured of the legitimacy of RIEAs among their constituents; and
- RIEAs not be 'gatekeepers' or have decision-making responsibilities concerning Indigenous program funding.<sup>217</sup>

However these parameters do not necessarily have to be met in total. They are intended as a guide, and other proposals that merit consideration but do not meet these criteria will be considered.

The parameters are themselves of some concern, as they indicate that the shift away from regional representative bodies is definite. RIEAs will only get funding support for a year, after which time any further support must be negotiated through an RPA. Whilst this does not necessarily preclude organisations with a degree of permanency, it shows that engagement arrangements are to be contingent on RPAs.

While it is desirable not to foist a standard model on different regions, and this is one of the reasons given for the slowness in getting regional engagement arrangements in place or supported, I remain concerned that the vacuum in Indigenous regional participation is creating problems. It is difficult for Indigenous communities to deal with the volume of changes, agencies and requirements under the new arrangements and the increasing entanglements of red tape.<sup>218</sup> There is a need to support authentic and credible structures and processes for Indigenous communities that allow them to: engage with governments; be consulted; and where appropriate, provide informed consent.

Chapter 3 considers this issue in some depth. It notes that:

In my view the government has adopted a cynical and disingenuous approach in which the apparatus of the new arrangements play no active role in engaging with Indigenous peoples on a systemic basis to ensure that mechanisms for Indigenous participation can become a reality.

The Government has clearly stated that one of the priority areas for their Expert Panels and 'Multiuse list of community facilitators/coordinators' is to assist in the development of regional engagement arrangements. This demonstrates that they are fully aware that such arrangements will only become a reality if intensive

217 OIPC, *Regional Indigenous Engagement Agreements*, available at [http://www.oipc.gov.au/documents/RegionallndigenousEngagementArrangements\\_Parameters.pdf](http://www.oipc.gov.au/documents/RegionallndigenousEngagementArrangements_Parameters.pdf) accessed 4 December 2006.

218 Morgan Disney & Associates Pty Ltd, *A Red Tape Evaluation in Selected Indigenous Communities: Final Report for OIPC*, May 2006, available at <http://www.oipc.gov.au/publications/PDF/RedTapeReport.pdf> accessed 19 January 2007.



support is provided to Indigenous communities to develop models that are suitable to their local needs.

It is fanciful to expect that RIEAs will emerge solely through the efforts of Indigenous communities that are under-resourced and that in most instances do not have the necessary infrastructure to conduct the wide-ranging consultation and negotiation required to bring a regional engagement structure into existence.

It is also convenient for Government to leave this issue solely up to Indigenous peoples to progress. I would suggest that this is done in full knowledge that the outcome of this approach will be an absence of regional engagement arrangements.

There is a clear need for special assistance to ensure that Indigenous peoples are able to, in the words of the object of the *Aboriginal and Torres Strait Islander Act 2005*, ensure the 'maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of government policies that affect them'.<sup>219</sup>

I hope that RIEAs will develop in a manner that can represent Indigenous interests in their area, but whether they will have sufficient autonomy to freely represent their members' interests remains to be seen.

- **The importance of direct engagement with Indigenous communities**

It is also important to consider the *modalities* of engagement with Indigenous communities. A major thrust of the new arrangements has been *direct engagement* with communities and families. This approach has been taken, despite the government's oft repeated conviction that there were serious failings in the modalities of engagement with Indigenous communities in the era of 'self-determination' or 'self-management' (essentially from the 1970's through to the new arrangements in July 2004).

Indigenous organisations and various other intermediaries had, according to the government, become 'gatekeepers' - in effect preventing Indigenous peoples from dealing directly with governments, expressing their real priorities, or operating on a basis of mutual responsibility. The then Minister, Senator Vanstone, expressed these concerns with the old ways of doing things and the government's intention to let Indigenous families and communities speak for themselves:

When no one listens to your view, when no one sees that you could contribute anything of value, it's the equivalent of being told that you are of no value, either within or outside that community. That debilitating and degrading message has been reinforced day-after-day, year-after-year, decade-after-decade, in hundreds, if not thousands, of communities around Australia. We're changing that. We are listening directly to communities. We are asking them not only what they want, but also, what they can contribute.<sup>220</sup>

219 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2006*, HREOC Sydney 2007, Chapter 3.

220 Vanstone, Address to National Press Club 23 February 2005 at <http://www.kooriweb.org/foley/news/vanstone1.html> accessed 15 February 2007.



This remains a key plank of the new arrangements, as shown by the following comment of the current Minister, Mr Brough:

We aim to make it simpler for Indigenous people to deal with government. We want to show respect by encouraging them to be active participants in solving their own problems.<sup>221</sup>

This is an entirely worthy objective. There can be no doubt that intermediaries - including Indigenous organisations - can unintentionally disempower Indigenous peoples. This has clearly occurred at times in Australia, particularly where key interests, such as rights in lands and waters, have been concerned. However, this paradox of Indigenous representation reflects an inherent problem in the interface of two quite distinct systems - the European system of laws, governance and administration<sup>222</sup> and Aboriginal and Torres Strait Islander systems of laws and customs. These two systems are based on quite different premises and values, but the two have to find a way to interact as they coexist over the same land and in the case of land and native title rights, Indigenous laws have legal effect in the European system.

No matter what rhetoric is current, Indigenous peoples undoubtedly retain some rights of self-government, and in practical terms have to be, and will be, consulted and negotiated with over programs and services. In any society with Indigenous minorities, whether Australia, New Zealand, Canada or others, the forms or modalities of engagement present significant challenges and require considerable thought and, indeed, sensitivity.

Programs to address Indigenous disadvantage have to be provided in genuine partnership with Indigenous peoples, and in terms that give those peoples room for input and initiative. These programs and services need to be provided *in ways that Indigenous peoples can identify with and 'own'*.

Indigenous peoples must be able to incorporate programs into their ideological and value systems. If such programs remain outside their systems, they will be seen simply as 'foreign', or as just the latest concern of government officials. If this is the perception in Indigenous communities, those programs will continue to be ineffective in dealing with Indigenous disadvantage.

Leading Indigenous spokespeople have made this point repeatedly. Noel Pearson, writing in the context of alcohol and drug problems, affirms that while law enforcement is important, coercive measures alone will not succeed. Rather, Pearson believes a combination of both the enforcement powers of the police, and 'the moral resolve of elders' is required.<sup>223</sup> Similarly Pat Dodson has observed:

All the assistance in the world will be of no consequence if our governments are not prepared to enter into genuine conversations with our people at every level to come to agreement about how Aboriginal people can take their place in the

221 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), *Indigenous Affairs Arrangements*, Foreword, OIPC, Commonwealth of Australia, Canberra, 2006, pv. Available at [http://oipc.gov.au/About\\_OIPC/Indigenous\\_Affairs\\_Arrangements/OIPC\\_Book.pdf](http://oipc.gov.au/About_OIPC/Indigenous_Affairs_Arrangements/OIPC_Book.pdf) accessed 15 February 2007.

222 'European' in terms of the system of laws that entered Australia with settlement, which were predominantly British.

223 Pearson, N., 'The Right Side of the Law', *The Australian*, 11 November 2006.



Australian society, while still being able to be Aboriginal people with unique roles and responsibilities in their own land.<sup>224</sup>

It is my concern that the basic problem remains when it comes to government engagement with Indigenous peoples in Australia: there is still an unwillingness or inability to fully comprehend and respect the distinctive nature of Indigenous societies and cultures. Until this situation changes, even with the best will in the world, policies of 'direct engagement' with Indigenous peoples are unlikely to succeed.

### • **Defining Indigenous 'communities'**

The engagement process under the new arrangements is based largely on the concept of a 'community'. While it is possible to strike agreements with 'families', the focus of most SRAs are at the 'community' level. This focus on 'community' is despite the extensive literature about the artificiality and problematic nature of major Indigenous settlements in Australia.

The term 'community' is misleading in the Australian context because many Indigenous settlements are artificial constructs that bring together disparate clan and language groups. Many of these settlements only took root because non-Indigenous people established a mission or ration depot, and over time Indigenous peoples settled in and around these locations. Not surprisingly, this mix of clan and language groups created and continues to create tensions and stresses in what we now loosely refer to as 'Indigenous communities'.

The transformation of a 'settlement' into a 'community' in the sense of a cohesive functioning 'town' like other Australian rural towns, has been a policy objective going back to the 1960s.<sup>225</sup> The objective of 'normalising' Indigenous communities clearly underlies current government initiatives, rather than the stated aim of direct engagement with Indigenous communities.

A good case in point is provided by the recent amendment of the *Aboriginal Land Rights (Northern Territory) Act 1976* to enable the creation of 99 year leases over Indigenous owned land. The objective of this proposal appears to have been to turn Indigenous settlements into 'normal townships', in part by overriding traditional land ownership laws and the responsibilities of traditional custodians through the device of a 'headlease'.

Such attempts (and the 99 year leases are just the latest incarnation of this objective) will almost certainly have the opposite effect to that which is desired. The changes are likely to reinforce the artificiality and alienating nature of these communities, and to add to their social dysfunction. The rights of the traditional owners will be nullified. Regardless of compensation arrangements or 'rents', this is unlikely to work towards the development of harmonious communities. Similarly, Indigenous initiatives to relocate away from the social dysfunctional characteristics of large Indigenous settlements by establishing homelands communities have met with a degree of negativity (see discussion of Wadeye COAG trial above).

224 Corbett, K., 'Stop criticising indigenous people – leader', *The Australian*, 23 November 2006.

225 See Rowley, C.D., *The Remote Aborigines*, Pelican, Sydney, 1972.



Such policy developments lead me to suspect that the direct engagement objective, whilst well intentioned, is not yet sufficiently based on a full understanding and acceptance of the values, aspirations and social organisation of Indigenous Australians. As well as mutual obligation, we must strive for mutual understanding and genuine partnership.

### • **Capacity building**

Indigenous peoples are not always in a position of equal power, nor do they necessarily have the capacity to engage in direct negotiations without some risk to their legitimate interests. Safeguards must be in place to ensure that interests and rights are protected. Where necessary, assistance should be provided in strengthening capacity to engage in negotiations.

Over many years there has been considerable effort put into capacity building in Indigenous communities. Many of these programs have been successful, and there is now significant Indigenous capability in a wide range of areas. But the need to build and strengthen capacity remains a massive task, and when the emphasis is placed on direct negotiation, consultation and agreement making as under the current arrangements, this potentially brings the capacity building requirement right down to the grass roots.

The more that this capacity building can come from Indigenous organisations the more effective it will be. I note the continuing work of the Office of the Registrar of Aboriginal Corporations in providing on-the-ground accredited training in corporate governance for Indigenous Governing Committees and Boards.<sup>226</sup> There is, however, an ongoing need for a strategic approach to creating succession in communities for Indigenous peoples to take over many of the jobs currently undertaken by non Indigenous people in communities. There are also many organisations, both government and non-government working at the local, regional and national levels to strength and enhance Indigenous capacity.

There is a particular concern in relation to small SRAs and capacity building, which I highlighted in the *Social Justice Report 2005*:

With the initial focus on single issue SRAs, it is also difficult to see that a capacity building approach tied to long term change is being prioritised in the SRA approach – although the government has clearly indicated that this is an intention of the process and will be built upon through the negotiation of more comprehensive SRAs.<sup>227</sup>

Since then, the Government has responded (in August 2006) to my report by way of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Many Ways Forward – Capacity Building in Indigenous communities*.<sup>228</sup> One of the Committee's recommendations was that all three levels of government work cooperatively and in consultation with Indigenous peoples in

226 See Office of the Registrar of Aboriginal Corporations at [http://www.orac.gov.au/training\\_information\\_sessions/calendar/default.aspx](http://www.orac.gov.au/training_information_sessions/calendar/default.aspx)

227 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2005*, HREOC, Sydney, 2005, p160.

228 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA), *Many Ways Forward: Report of the inquiry into capacity building and service delivery in Indigenous communities*, June 2004.



relation to the provision of services. This whole of government approach to service delivery should include:

the incorporation of capacity building into the design and implementation of programs delivering services to Indigenous communities, including funds to enable mentoring of community members and organisations.<sup>229</sup> [Recommendation 7(d)]

In its response to the Committee, the government observed generally in respect of SRAs and capacity building, that:

The close engagement with communities in the development of SRAs has allowed the Government to obtain a better idea of the capacity building requirements of communities and to tailor program and service delivery to help build capacity where it is needed. Approximately half of all SRAs signed to date feature community capacity building, governance and leadership initiatives supported by the Government.<sup>230</sup>

The government in specifically responding to Recommendation 7 (d) did not accept this particular recommendation in full, however, it noted that:

Capacity building, within both Indigenous communities and government agencies, is a key focus for the Government. Rather than it being an automatic requirement that a capacity building component be built into the design and implementation of programs, capacity building needs should be considered in the light of the circumstances of individual communities and service delivery organisations.<sup>231</sup>

Undoubtedly this is so. Communities have variable levels of capabilities. Some only need some initial facilitation support, such as assistance with marketing, seed funding for enterprises, or linkages to relevant agencies in fields such as tourism, the arts and environmental management. Other communities, perhaps without experience or training in the past, might need substantial and longer-term assistance in capacity building.

What matters is that direct engagement can only be meaningful if the capacity exists in communities to so engage. In designing program delivery, capacity building always needs to be considered and resources made available appropriate to the circumstances.

## **The changing role of the Office of Indigenous Policy Coordination (OIPC)**

Organisational stability during the implementation of new administrative arrangements would normally help such arrangements to 'filter down' and become understood and accepted by clients as being the way that business is now done. However, such stability has been lacking in respect of the new arrangements in Indigenous affairs, with a number of significant shifts in both arrangements and

229 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA), *Many Ways Forward: Report of the inquiry into capacity building and service delivery in Indigenous communities*, June 2004, paragraph 2.94 at p.xxix.

230 Australian Government response to *Many Ways Forward – Capacity building and service delivery in Indigenous communities*, August 2006, p7.

231 Australian Government response to *Many Ways Forward – Capacity building and service delivery in Indigenous communities*, August 2006, p 20.



policy settings in the relatively short period since the new arrangements came into effect. Changes to the location of OIPC within the Indigenous affairs bureaucracy are suggestive of the instability that lies at the very foundation of the new arrangements.

As the successor to ATSIC and ATSIIS, OIPC was to be the focus of the implementation of the new arrangements. Its role included:

- Coordinating Indigenous policy and programs at the national level;
- Managing the Indigenous Coordination Centres (ICCs);
- Brokering relationships with other levels of government, including with the states and territories; and
- Reporting on the performance of government programs and service delivery for Indigenous people, in the context of policy review and development.

At the time of the implementation of the new arrangements OIPC also retained some responsibility for delivering major programs, particularly in relation to land rights and native title.

OIPC faced significant difficulties from the start. The new arrangements involved a number of innovative changes, including ICCs, Regional Partnership Agreements (RPAs) and Shared Responsibility Agreements (SRAs). These changes brought new challenges for policy and program development, such as the need to reduce barriers to access mainstream services for Indigenous peoples, which were often provided by state and territory governments.

As a result of mainstreaming ATSIC programs, OIPC lost a significant number of skilled and experienced staff, including Indigenous staff.<sup>232</sup> The reduced organisational expertise available to the new agency, given the considerable challenges facing it, created its own difficulties. As well, an undue confidence based on an assumption that ATSIC had been the major cause of failure in Indigenous affairs, may have exacerbated the difficulties which have accompanied implementation of the new arrangements.

Early reservations on the part of Secretaries of some departments about the role of OIPC were noted by Gray and Sanders.<sup>233</sup> In their view, the role of OIPC was:

- Too prominent in the new arrangements, and potentially OIPC could grow into the government's major Indigenous agency, thereby undermining the objective of mainstreaming; and
- That OIPC sat awkwardly in the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA).

One Secretary's view (at the time OIPC was located in DIMIA) was that:

it might be more productive if OIPC were in the future 'broken up' and for relevant parts of it to come across into that department [the department of the person

232 Previous reorganisations and downsizing of ATSIC had already had a considerable detrimental impact, particularly the reorganisation of 2000.

233 Gray, W. and Sanders, W.G., *Views for the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs*, Centre for Aboriginal Economic Policy Research (CAEPR), Discussion Paper no 282/2006, p10-12.





making this observation], rather than being left as an 'awkward pimple' on a department dominated by its immigration function.<sup>234</sup>

It seems that this has now largely transpired. First OIPC was transferred to the Department of Family and Community Services that was later renamed FaCSIA. Then, a reorganisation of FaCSIA in the latter part of 2006 resulted in OIPC programs and some of its key functions being taken from OIPC and subsumed within the overall departmental structure of FaCSIA. Program losses included native title and land rights, which are now handled by a Branch (Land) within the Indigenous Land and Housing Division of FaCSIA. The other major change is the loss of the responsibility for managing ICCs. ICC managers now report to FaCSIA state and territory managers, whose responsibilities are wider than Indigenous programs.

As the OIPC website states:

Certain functions that had been with OIPC are now undertaken from within the wider FaCSIA, including management of ICCs and program management.<sup>235</sup>

As at November 2006, the role of OIPC was as follows:

- Provide advice to the Minister for Families, Community Services and Indigenous Affairs;
- Coordinate and drive whole-of-government innovative policy development and service delivery across the Australian Government;
- Coordinate the Single Indigenous Budget;
- Broker relations with State and Territory Governments on Indigenous issues;
- Evaluate and report on the performance of government programs and services for Indigenous people to inform policy review and development; and
- Support the work of the Ministerial Taskforce on Indigenous Affairs, Secretaries' Group on Indigenous Affairs and National Indigenous Council.

It seems that under the new administrative arrangements OIPC becomes one division or group among others in the FaCSIA structure, rather than an autonomous agency as suggested by its name.<sup>236</sup> The Secretary of FaCSIA, Dr Farmer, described the change in the following discussion at the Senate Estimates hearing in November 2006:

*Dr Harmer:* OIPC in the new structure has been redefined to a coordinating group.

*Senator CHRIS EVANS:* Coordinating group. So what does that mean in terms of its resources? Policy coordination is a small section?

*Dr Harmer:* No, it is not small. It is a significant coordination function which manages the single Indigenous budgets submission and manages the secretariat for the

234 Gray, W. and Sanders, W.G., *Views for the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs*, Centre for Aboriginal Economic Policy Research (CAEPR), Discussion Paper no 282/2006, p11.

235 Office of Indigenous Policy Coordination, *About OIPC*, available at [http://www.oipc.gov.au/About\\_OIPC/default.asp](http://www.oipc.gov.au/About_OIPC/default.asp) accessed 19 January 2007.

236 See FaCSIA Organisation Structure January 2007, available at <http://www.facs.gov.au/internet/facsinternet.nsf/aboutfacs/orgchart.htm> accessed 15 February 2007.



secretary's [sic] group. It manages the secretariat for the National Indigenous Council and a whole range of other coordination tasks—

*Senator CHRIS EVANS:* All of the line functions have been placed elsewhere?

*Dr Harmer:* They are now part of FaCSIA proper, yes.

*Senator CHRIS EVANS:* They have all been brought under one roof inside FaCSIA?

*Dr Harmer:* Yes, they have.<sup>237</sup>

Although OIPC undoubtedly retains important coordination functions, nevertheless, the loss of responsibility for management of the ICCs is highly significant. This role provided leverage in policy development and relationship brokering roles; ICCs were a key OIPC responsibility. In October 2005 the Secretaries' Group on Indigenous Affairs released a Bulletin on ICCs<sup>238</sup> which emphasised the pivotal role of OIPC in relation to the management and functioning of the ICCs. As recently as August 2006 the government's response to a report of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs stated that 'OIPC leads the ICCs'.<sup>239</sup> Given the pre-eminence of ICCs in the new arrangements, this change appears to represent a major downgrading of OIPC's role.

These changes to OIPC's role only increase present uncertainty about where overall responsibility for Indigenous policy lies. Despite assurances from FaCSIA that the reorganisation will lead to a greater focus within that Department on Indigenous policies and programs by bringing together all Indigenous-specific programs,<sup>240</sup> I am concerned that we are in fact seeing an increase in 'disconnected' government. One wonders where within the system, the objective of boosting Indigenous peoples' ability to 'harness the mainstream' now lies.

The fact that OIPC sits within FaCSIA and that its various Indigenous programs have been grouped under one Deputy Secretary<sup>241</sup> appears to give FaCSIA a *de facto* lead agency role in Indigenous affairs. Another way of putting this is that the Secretary of FaCSIA is now the senior official in Indigenous affairs. To what extent this is a rational outcome, or whether it reflects the vagaries and shifting sands of bureaucratic arrangements is unclear. Confusion over who is responsible for leading change has been identified in respect of the failures of the COAG trial in whole of government administration at Wadeye (see above). I am concerned that this may be an emerging system-wide problem.

237 Harmer, J., (Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, Canberra, 2 November 2006, pCA13. Available at <http://www.aph.gov.au/hansard/senate/commttee/S9783.pdf> accessed 15 February 2007.

238 Secretaries' Group on Indigenous Affairs, *The ICC model: Five point plan*, Bulletin (4/2005), October 2005, p1, available at: [www.apsc.gov.au/indigenousemployment/bulletin0405.pdf](http://www.apsc.gov.au/indigenousemployment/bulletin0405.pdf), accessed 9 November 2006.

239 Australian Government response to *Many Ways Forward – Capacity building and service delivery in Indigenous communities*, August 2006, p5.

240 Gibbons, W., (Associate Secretary, FaCSIA), *Hansard*, Senate Standing Committee on Community Affairs, Supplementary Budget Estimates, Canberra, 2 November 2006, pCA14. "... all of the programs that are Indigenous-specific are in one area of the department, together with the whole-of-government coordination functions in the Office of Indigenous Policy Coordination. Activities that are mainstream in their focus—that is, they service Indigenous and non-Indigenous people alike - are in the mainstream element of the department." Available at <http://www.aph.gov.au/hansard/senate/commttee/S9783.pdf> accessed 13 February 2007

241 See FaCSIA Organisation Structure January 2007, available at <http://www.facs.gov.au/internet/facsinternet.nsf/aboutfacs/orgchart.htm> accessed 15 February 2007.



FaCSIA is a mainstream agency that has responsibilities to a broad range of clients. It is difficult to see how it can be expected to consistently provide the essential advocacy and support that is needed to adequately protect Indigenous rights and interests.

It is equally concerning that the portfolio of Indigenous affairs does not have a Minister with sole responsibility. Instead the Minister responsible is also the Minister for Families and Community Services.<sup>242</sup> Not only does this mean the Minister's attention is not focussed on Indigenous affairs and the task of directing the whole of government approach to address Indigenous disadvantage, it also means that this Minister has multiple responsibilities at the Cabinet table. It is therefore not to be expected that he will always have the needs and aspirations of Indigenous Australians at the forefront of his mind; they will inevitably and frequently come second.

This situation is disturbing. If Indigenous affairs are going to be effectively subsumed within broader departmental structures and Ministerial portfolios, this will reduce visibility, accountability and perhaps responsibility. It raises the issue of just how far the mainstreaming of Indigenous affairs is to go. It appears to be consistent with the dogma that Indigenous Australians have no special place, and no special rights.

### **Text Box 9: The quiet revolution?**

The full reach of the 'quiet revolution' may have yet been under-estimated. Since the establishment of an Office of Aboriginal Affairs (established by the Prime Minister in 1967),<sup>243</sup> the Commonwealth's involvement in Indigenous affairs, including its relations with the states and territories, has been mediated through relatively autonomous stand-alone administrative machinery. This machinery has included the Office of Aboriginal Affairs, the Department of Aboriginal Affairs, ATSIC and finally ATSI.

Now, we are going in the opposite direction and OIPC, as the agency with the nominal task of coordinating Indigenous policy, is being reduced in status, and is in danger of losing the degree of autonomy and separation that would appear necessary to allow for providing independent advice and objective evaluation of programs. No new agency charged with such responsibility seems likely.

In terms of the principal concern of this chapter, these changes beg the question of who is to watch, monitor and assess progress in eliminating the barriers that inhibit Indigenous peoples' ability to access mainstream services? Are mainstream services to evaluate their own progress? If so how can objectivity be guaranteed?

242 The Hon. Mal Brough MP was appointed Minister for Families, Community Services and Indigenous Affairs, and Minister Assisting the Prime Minister on Indigenous Affairs on 27 January 2006. Prior to this, The Hon Senator Amanda Vanstone MP was the Minister for Immigration and Multicultural and Indigenous Affairs, and Minister Assisting the Prime Minister on Indigenous Affairs. See Parliamentary Library, *Parliamentary Handbook of the Commonwealth of Australia*, Current Parliamentary Information on the 41<sup>st</sup> Parliament, Commonwealth Government, Canberra, 2007. Available at <http://www.aph.gov.au/library/parl/41/ministry/ministry.htm> accessed 15 February 2007.

243 See Rowley, C.D., *The Remote Aborigines*, Pelican, Sydney, 1972, p343.



The changes in role of OIPC are part of a kaleidoscope of shifting arrangements that have confused and bedevilled the 'new arrangements in Indigenous affairs' since their inception and implementation. The confusion and instability appears to be worsening. Whilst I hope this does not continue to be the case, these are matters of concern and my Office will follow them closely over the next 12 months.

## Monitoring and evaluation mechanisms – ensuring accountability for the new arrangements

There is a danger in the new arrangements of an 'accountability gap'. Such a gap could develop between the *rhetoric* of improved outcomes through mainstreaming on a 'whole-of-government' basis, and the *reality* of actual outcomes for Indigenous peoples and communities on the ground.

The need to evaluate the new arrangements has been recognised from early in their implementation. In 2002 COAG noted that:

failures in the past have emphasised the importance of policy that is evidence based and incorporates ongoing mechanisms for evaluation and review.<sup>244</sup>

In 2004 COAG agreed to a *National Framework of Principles for Delivering Services to Indigenous Australians*.<sup>245</sup> This Framework clearly linked the need for greater transparency and accountability to the goal of better service delivery to Indigenous peoples. By adopting the Framework, Australian governments committed themselves to:

- Strengthen the accountability of governments for the effectiveness of their programs and services through regular performance review, evaluation and reporting;
- Ensure the accountability of organisations for the government funds that they administer on behalf of Indigenous people; and
- Task the Productivity Commission to continue to measure the effect of the COAG commitment through the jointly-agreed set of indicators.

In the *Social Justice Report 2004* I noted that there was a need for 'rigorous monitoring of the implementation of the new arrangements'.<sup>246</sup> In 2005 the Senate Select Committee on the Administration of Indigenous Affairs, noting that 'the Committee has not been presented with any actual evidence to show that mainstreaming will bring about improvements in service delivery',<sup>247</sup> recommended:

244 COAG, Communiqué, 5 April 2002, Attachment 1, *COAG Reconciliation Framework: Report on Progress in 2001*, p6-7, available at [http://www.coag.gov.au/meetings/050402/reconciliation\\_report.pdf](http://www.coag.gov.au/meetings/050402/reconciliation_report.pdf) accessed 19 January 2007.

245 COAG, Communiqué, 25 June 2004, Attachment B – *National Framework of Principles for Delivering Services to Indigenous Australians*, p2, available at <http://www.coag.gov.au/meetings/250604/index.htm#attachments> accessed 19 January 2007.

246 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, HREOC, Sydney, 2004, p95.

247 Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC – Life in the mainstream?*, Commonwealth of Australia, March 2005, chapter 5 Mainstreaming of Service Delivery, para 5.54. Available at [http://www.aph.gov.au/Senate/committee/indigenousaffairs\\_ctte/report/final/report.pdf](http://www.aph.gov.au/Senate/committee/indigenousaffairs_ctte/report/final/report.pdf) accessed 15 February 2007.



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. The Committee also recommends that the resultant report is made public. (Recommendation 5.1)<sup>248</sup>

The Secretaries' Group on Indigenous Affairs commented in its *Annual Report 2004-05* on the implementation of the new arrangements: 'We consider that, given the magnitude of the task, the progress made to date is significant.'<sup>249</sup>

It would be reassuring to think that this is the case, but can we be sure?

In implementing the reconciliation framework to address Indigenous social and economic disadvantage, COAG in 2002 commissioned a regular report against key indicators of Indigenous disadvantage. The Prime Minister, Mr Howard, subsequently stated that the principal task of this report would be:

to identify indicators that are of relevance to all government departments and Indigenous stakeholders and that can demonstrate the impact of programme and policy interventions'.<sup>250</sup>

Subsequently, the Steering Committee for the Review of Government Service Provision (SCRGSP), with secretariat assistance from the Productivity Commission, produced *Overcoming Indigenous Disadvantage – Key Indicators 2003*,<sup>251</sup> and a second report in 2005. As the Chairman of the Productivity Commission, Gary Banks, has observed, by linking progress with reducing Indigenous disadvantage to government programs, the accountability of governments in dealing with Indigenous disadvantage has been elevated.<sup>252</sup>

The laudable, indeed essential, objective of monitoring the impact of program and policy interventions through charting changes in key indicators has proved in actuality somewhat difficult to achieve. Despite the best efforts of the Productivity Commission, the *Key Indicators* reports have not been able, to date, to yield data that can, in the Prime Minister's words, 'demonstrate the impact of programme and policy interventions'.

It is simply too early for changes flowing from the new arrangements to show up in a way that cause and effect can be reasonably identified. The *Key Indicators 2005* report is based to a considerable degree on data that predates the policy initiatives arising from COAG and implemented by the new arrangements in

248 Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC – Life in the mainstream?*, Commonwealth of Australia, March 2005, chapter 5 Mainstreaming of Service Delivery, para 5.76. Available at [http://www.aph.gov.au/Senate/committee/indigenouaffairs\\_ctte/report/final/report.pdf](http://www.aph.gov.au/Senate/committee/indigenouaffairs_ctte/report/final/report.pdf) accessed 15 February 2007.

249 Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p2. Available at [http://oiipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oiipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.

250 Howard, J., (Prime Minister) letter to Mr Gary Banks, Chairman Steering Committee for the Review of Commonwealth/State Service Provision, 3 May 2002, reproduced in SCRGSP, *Overcoming Indigenous Disadvantage – Key Indicators 2003*, Productivity Commission, Canberra, 2003. Available at <http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2003/> accessed 15 February 2007.

251 SCRGSP (Steering Committee for the Review of Government Service Provision), *Overcoming Indigenous Disadvantage – Key Indicators 2003*, Productivity Commission, Canberra, 2003. Available at <http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2003/> accessed 15 February 2007.

252 Banks, G., (Chairman of the Productivity Commission), *Indigenous disadvantage: are we making progress?*, Speech, Committee for Economic Development in Australia (CEDA), 21 September 2005, p3.



Indigenous affairs.<sup>253</sup> As well, there are a range of significant gaps, inconsistencies and definitional problems in the data.<sup>254</sup>

The *Key Indicators 2005* report showed at best a mixed picture in respect of addressing Indigenous disadvantage in Australia, with some key indicators showing improvement, but others showing deterioration. Overall the Productivity Commission concluded that:

in the areas identified as crucial to reducing disadvantage, outcomes fall well short of what is needed.<sup>255</sup>

Although there are significant problems associated with using the *Key Indicators* reports to assess the outcomes of the new arrangements, at least in the short to intermediate term, the Productivity Commission has advised that *in time* they will enable government to gauge the extent to which the new arrangements are producing better results.<sup>256</sup>

A further difficulty is that the *Overcoming Indigenous Disadvantage* reports provide a reading of outcomes from a 'whole of government' perspective. This means that the information is inevitably provided at a broad level.<sup>257</sup> The strategic change indicators in the reports are more closely linked to program areas, but are not comprehensive and also suffer from a range of data issues. It is simply not possible to establish causal linkage between policy objectives and/ or program specifics with the results of the key indicators. One can only draw conclusions by implication. As the Productivity Commission has correctly pointed out:

It (the report) is not a substitute for detailed evaluation of specific programs and policy initiatives.<sup>258</sup>

Overall, the risk is that without targeted evaluations, set against well considered benchmarks and reporting on relevant indicators, policy failure may take some while to show up in the key, or 'headline', indicators. The time lag in this reporting framework means that remedies and adjustments to policy settings may, by the time the necessity to make them has become clear, be all that more difficult to implement. The disadvantage of Indigenous peoples will be further entrenched.

The Secretaries' Group on Indigenous Affairs has also noted the following evaluation problems. Firstly, the problems of delay:

253 Banks, G., (Chairman of the Productivity Commission), *Indigenous disadvantage: are we making progress?*, Speech, Committee for Economic Development in Australia (CEDA), 21 September 2005, p9.

254 SCRGSP (Steering Committee for the Review of Government Service Provision), *Overcoming Indigenous Disadvantage – Key Indicators 2003*, Productivity Commission, Canberra, 2003, Section 2.5 'Data issues', p2.15. Available at <http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2003/> accessed 15 February 2007.

255 Banks, G., (Chairman of the Productivity Commission), *Indigenous disadvantage: are we making progress?*, Speech, Committee for Economic Development in Australia (CEDA), 21 September 2005, p12.

256 Banks, G., (Chairman of the Productivity Commission), *Indigenous disadvantage: are we making progress?*, Speech, Committee for Economic Development in Australia (CEDA), 21 September 2005, p3.

257 Banks, G., (Chairman of the Productivity Commission), *Indigenous disadvantage: are we making progress?*, Speech, Committee for Economic Development in Australia (CEDA), 21 September 2005, p16.

258 Banks, G., (Chairman of the Productivity Commission), *Indigenous disadvantage: are we making progress?*, Speech, Committee for Economic Development in Australia (CEDA), 21 September 2005, p16.



it will take some years to be able to report comprehensively on the impact of the new arrangements for Indigenous Australians.<sup>259</sup>

Secondly, the need for *Key Indicators* reports to be supported by other evaluation data. Thus, these reports:

need to be complemented by a robust, whole-of-government accountability and performance reporting framework for the Australian Government's programs and services. We need stronger performance indicators and a more systemised way of capturing and, more importantly, regularly reporting this information.<sup>260</sup>

And thirdly, the need to link programs and actual on-the-ground outcomes:

We also need to focus more on how funding or service interventions are making a difference in the life circumstances of Indigenous Australians.<sup>261</sup>

According to the Secretaries' Group, the new administrative arrangements for Indigenous affairs are, in fact, 'supported by a comprehensive accountability framework, with multiple layers.'<sup>262</sup> The Secretaries' Group also notes that the new arrangements are to operate in 'a learning framework', 'sharing information and experience, learning from mistakes and progressively adopting approaches that work best.'<sup>263</sup> Such a learning environment can only work, of course, with a good evaluative data base.

OIPC, in conjunction with other federal agencies, has prepared a plan for evaluation activities in respect of the government's whole of government approach in Indigenous affairs.<sup>264</sup> While the plan covers the period 2006-09, it focuses on activities for the 2006-07 financial year.

Mainstream government departments and agencies remain responsible for the evaluation of the programs they administer.<sup>265</sup> To avoid duplication of effort, agency evaluations are expected to be shared across agencies. OIPC has undertaken to compile and maintain a running directory of all evaluations of Indigenous specific

259 Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p24. Available at [http://oipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.

260 Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p24. Available at [http://oipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.

261 Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p24. Available at [http://oipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.

262 Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p26. Available at [http://oipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.

263 Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p27. Available at [http://oipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.

264 OIPC, *Evaluation Plan for Whole-of-Government Activities in Indigenous Affairs 2006-09*, p1, available at [http://www.oipc.gov.au/documents/OIPC\\_EvaluationPlan\\_23May.pdf](http://www.oipc.gov.au/documents/OIPC_EvaluationPlan_23May.pdf) accessed 18 January 2007.

265 Senate Community Affairs Legislation Committee, *Answers to questions on notice, Families, Community Services and Indigenous Affairs Portfolio*, 2006-07 Budget Estimates, May-June 2006: Office of Indigenous Policy Coordination Evaluation Plan for whole-of-government activities in Indigenous Affairs 2006-09, p1. Available at [available at http://www.oipc.gov.au/documents/OIPC\\_EvaluationPlan\\_23May.pdf](http://www.oipc.gov.au/documents/OIPC_EvaluationPlan_23May.pdf) accessed 18 January 2007.



programs over the past 5 years. The focus of the *Evaluation Plan* itself is on activities of a whole of government nature.<sup>266</sup>

Thus both Indigenous specific and mainstream programs as accessed by Indigenous peoples, are excluded from OIPC's evaluation activities. OIPC makes clear that:

This plan is therefore only one element of the assessment of the new arrangements in Indigenous affairs. The new arrangements are being assessed through several layers of evaluation and performance management. This whole-of-government evaluation activity complements and will be informed by:

- Evaluations and audits by independent authorities, including the Office of Evaluation and Audit (Indigenous Programs) in the Department of Finance and Administration;
- Australian National Audit Office;
- Aboriginal and Torres Strait Islander Social Justice Commissioner;
- Departmental sponsored audits and evaluations of the mainstream and Indigenous specific programs, including lapsing programs and services each is responsible for;
- Public-sector, academic and independent research activities, including those funded by government departments and those conducted independently by academic institutions;
- Performance monitoring and reporting mechanisms, such as the Council of Australian Governments (COAG) *Overcoming Indigenous Disadvantage Report* and the annual *Reports on Government Services*; and
- The *Secretaries' Group on Indigenous Affairs Annual Report*.<sup>267</sup>

It is proposed that the OIPC plan will be a rolling plan. It will be reviewed annually to ensure that planned evaluation activities target the areas of most need. Thus:

The plan is not a constraining document, and other evaluative activities may be commissioned during the 2006-07 and beyond if the need arises.<sup>268</sup>

The plan is an interesting document and I am pleased to see a continuing commitment to the need for ongoing evaluations. The plan builds on whole of government evaluative work over the past 12 months, including the *Red Tape Evaluation* (Morgan Disney report),<sup>269</sup> the formative evaluation of the 8 COAG trial sites, and the review of individual SRAs. There is a commendable flexibility built into the plan.

The most recent system evaluation, the Morgan Disney report identified significant problems in program implementation. One significant problem identified, in terms of evaluation, is a mismatch between indicators established in funding approvals (for example for SRAs) and the intended outcomes.<sup>270</sup> The report found instead a

266 OIPC, *Evaluation Plan for Whole of Government Activities in Indigenous Affairs 2006-09*, p1. Available at [http://www.oipc.gov.au/documents/OIPC\\_EvaluationPlan\\_23May.pdf](http://www.oipc.gov.au/documents/OIPC_EvaluationPlan_23May.pdf) accessed 15 February 2007.

267 OIPC, *Evaluation Plan for Whole of Government Activities in Indigenous Affairs 2006-09*, p1-2. Available at [http://www.oipc.gov.au/documents/OIPC\\_EvaluationPlan\\_23May.pdf](http://www.oipc.gov.au/documents/OIPC_EvaluationPlan_23May.pdf) accessed 15 February 2007.

268 OIPC, *Evaluation Plan for Whole of Government Activities in Indigenous Affairs 2006-09*, p3. Available at [http://www.oipc.gov.au/documents/OIPC\\_EvaluationPlan\\_23May.pdf](http://www.oipc.gov.au/documents/OIPC_EvaluationPlan_23May.pdf) accessed 15 February 2007.

269 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006.

270 Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p73.





compliance driven emphasis on outputs, unrelated to the objectives of the program or project. Indicators were not related to nation-wide objectives and tended to be idiosyncratic. The data resulting from poorly articulated indicators cannot be seen as evaluative or as providing guidance for policy development.

In respect of the evaluations of the COAG trials, although not complete at the time of preparation of this report, these showed indications of serious failures of the trials. There appears to be a hasty transition from the evaluation findings to new or different policy settings underway without sufficient time to reflect on the lessons of the evaluations (as discussed in earlier sections of this chapter). The SRA reviews are 'very low cost' because they are very brief (and potentially superficial).

While evaluations have to be as technically rigorous as possible, they also need to be conducted in an inclusive manner to ensure that accurate interpretations and conclusions are drawn from the data, and the correct policy implications drawn.

There remains a particular challenge in respect of the objective of the new arrangements of 'harnessing the mainstream.' That is, how to achieve measurable outcomes for Indigenous peoples. Again, this problem has been highlighted by the Secretaries' Group on Indigenous Affairs, which commented that '[i]n most areas, information is not yet available to assess the use of mainstream programs by Indigenous people.'<sup>271</sup>

Further, they note:

Improving the range and currency of this kind of information is an area where we need to do further work.<sup>272</sup>

In this I concur. The range of information on accessing mainstream government services is patchy at best. There appears to be no overarching framework of benchmarks and indicators specific to issues of improving access to mainstream services. This amounts to a major evaluation gap in the new arrangements for the administration of Indigenous affairs given the centrality of this objective in reducing Indigenous disadvantage.

It is possible that, given the lack of data and tools for measuring outcomes, there may in fact be no overall improvement in accessing mainstream services as a result of the new arrangements. Some Indigenous peoples, particularly those in urban areas, may actually be in a worse position as a result of the new arrangements, given the withdrawal of Indigenous-specific programs. This is a significant concern in the social justice context.

The accountability problem is potentially acute in respect of mainstream, as distinct from Indigenous-specific, programs. The methodological difficulties entailed in monitoring and evaluating progress in improving accessibility to mainstream programs can be significant. This is an area that needs to be addressed specifically in planning for evaluation of the new arrangements.

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271 Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p16. Available at [http://oipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.

272 Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p16. Available at [http://oipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.



Over the coming year, my Office will continue to follow the implementation of the OIPC *Evaluation Plan*, as well as evaluations undertaken by other agencies wherever possible. In particular, I will closely watch developments in relation to the audit currently being conducted by the Australian National Audit Office into key aspects of the new arrangements at the federal level.

The results of these evaluations will be of critical importance in guiding and modifying policy settings in Indigenous affairs. At the very least, the 'lessons learned' from these evaluations need to be shared widely and seriously considered by the Secretaries Group on Indigenous Affairs. They also need to be discussed with Indigenous peoples and other stakeholders including state and territory governments, the community sector and relevant industry bodies.

### Part 3: Conclusions and recommendations

An increasing degree of disquiet can be discerned in relation to the efficacy of the new arrangements. The concern is whether they are capable of delivering the promised improvements, given the extent and pervasiveness of Indigenous disadvantage, and whether any progress is being made.<sup>273</sup>

As Dr Shergold, in his capacity as Chair of the Secretaries' Group on Indigenous Affairs has observed, the reform of the administration of Indigenous affairs instituted in 2004 'set a huge challenge for the Australian Public Service (APS)'.<sup>274</sup> While Dr Shergold expressed confidence that the APS could meet this challenge, he did not underestimate the level of difficulty in radically re-structuring the administrative arrangements for Indigenous affairs.

Streamlining service delivery, enhancing coordination, eliminating duplication, and engaging with local communities rather than having a 'one size fits all' approach, laudable as these objectives are, may instead create their own red tape entanglements, establish their own new bureaucratic silos and bump along in a series of half-developed initiatives that do not substantially reduce Indigenous disadvantage.

It is indeed possible that the level of coordination and integration of services required under the new arrangements will prove to be too complex in implementation, and that the delivery of services to Indigenous communities will collapse under the weight of inordinately complicated and unrealistic arrangements. The impacts of continual change and insufficient attention to the management of the changes on staff in the ICCs also cannot be overlooked or disregarded. The Morgan Disney report, discussing the costs, benefits and consequences of coordination noted:

The new arrangements at Australian Government level have built into their structure the need for a high degree of coordination between all the agencies

273 See, for example, 'Post-ATSIC Agenda Needs Explaining', *The Australian*, editorial, 2 October 2006. Also comments from members of the government-appointed National Indigenous Council, as reported in: 'Show Aborigines the money, Howard's advisers demand', *Weekend Australian*, 16/17 September 2006, p3. Also Bartos, S., (Director of the National Governance Institute, University of Canberra), 'The light at the end of the tunnel could be – The year in review', *Canberra Times*, The Public Sector Informant, December 2006, p4.

274 Shergold, P., Foreword, in Secretaries' Group on Indigenous Affairs, *Annual Report on Indigenous Affairs 2004-05*, Office of Indigenous Policy Coordination, Canberra, 2005, p.v. Available at [http://oipc.gov.au/performance\\_reporting/sec\\_group/ar2005/OIPC\\_Sec\\_Report05.pdf](http://oipc.gov.au/performance_reporting/sec_group/ar2005/OIPC_Sec_Report05.pdf) accessed 15 February 2007.



represented in the ICCs. The necessary level of coordination is resource intensive and constantly needs attention. For every Minute (or administrative instruction) or policy statement that is issued in one department, there is a set of communications that must then occur between departments at national office, state/territory office and, ICC levels, in order to ensure that there is 'joined up government', with all parties made aware.

This is resource intensive for the Australian Government agencies, and reduces the time available to spend with Indigenous organisations dealing with their needs and problems, and assisting them in developing their own organisational capacity.<sup>275</sup>

The difficult but important challenge of improving the access of Indigenous peoples to mainstream services seems to be slipping from view. Experience with the implementation of the new arrangements has shown that assertions of intent, no matter how well-meaning, unless backed by specific programs, activities and undertakings, often have come to nought.

There is a need to move away from a mindset that is concentrated on process, towards one that is more focussed on outcomes. One of the shortcomings of the new arrangements in Indigenous affairs has been the tendency to characterise all problems besetting Indigenous communities as the result of failed processes – whether it be during the ATSIC era, or more recently, a lack of coordination on the part of governments in respect of service delivery. It can be misleading to confuse process with outcomes, and it appears that this may be what the new arrangements have, unwittingly, tended to do.

This confusion can also be seen as a by-product of the failure of the new arrangements to adopt a human rights based approach to addressing Indigenous disadvantage. The necessary components of this rights-based approach include: the development of agreed targets and benchmarks, an evaluative framework to assess whether the 'progressive realisation' principle is being met, and a people-centred approach which values the full participation of Indigenous peoples in the process.

The 'new broom' that has been introduced through the new arrangements to date has been a process broom. This has both exaggerated the role of process as a cause of Indigenous disadvantage, and resulted in other key issues not receiving the priority attention they deserved. In this regard I am thinking in particular of:

- The urgent need to improve access to mainstream services;
- The need to give Indigenous peoples a real and substantive voice at the negotiating table. Without full Indigenous participation we are not moving from a passive welfare model, regardless of initiatives such as SRAs;
- The significant under investment in infrastructure for Indigenous communities, a problem which is being exacerbated by the young and highly mobile demographic profile of the Indigenous population; and
- The need to support Indigenous communities in capacity building to assist them in developing autonomy and self-reliance.

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<sup>275</sup> Morgan Disney & Associates, *A Red Tape Evaluation of Selected Indigenous Communities: Final Report for the Office of Indigenous Policy Coordination*, Morgan Disney & Associates Pty Ltd, May 2006, p72.



The vacuum at the national and regional levels of Indigenous representative input is now serious. Without that Indigenous input, I am concerned that the mistakes of the past will be repeated, or the wrong lessons learned.

Unless there is a re-engagement with Indigenous Australians on the basis of mutual respect and equality, with clear processes and certainty of structures for Indigenous representation and advocacy, it remains uncertain whether the new arrangements can produce tangible, significant and lasting benefits rather than amounting to little more than an administratively complex repackaging of existing programs.

The following recommendations are made to address the critical absences of regular monitoring, engagement with Indigenous peoples and benchmarking of accessibility of mainstream service delivery. The first Inquiry identifies the need for regular parliamentary scrutiny that can then also be supplemented through the estimates process and in the examination of proposed legislation.

### **Recommendation 1: Directed to Federal Parliament**

That there be established a regular federal parliamentary committee of inquiry into the progress of the new arrangements in Indigenous affairs and progress in achieving whole of government service delivery to Indigenous communities.

This Inquiry should be conducted every two years. Its terms of reference should include identifying:

- Progress in addressing existing inequalities in Indigenous peoples' access (both urban and remote) to mainstream services (including the adequacy of processes to ensure that Indigenous specific expenditure *supplements* mainstream expenditure rather than *substitutes* for this expenditure);
- Progress in ensuring that processes are targeted so as to address existing need;
- Effective, sustainable and representative mechanisms for the participation of Indigenous peoples at the local, regional and national levels;
- The adequacy of performance monitoring and evaluation mechanisms for the new arrangements, including the adequacy of data collected to evaluate progress in addressing Indigenous disadvantage; and
- Whether the new arrangements are meeting the commitments made by the Australian Government through COAG to overcome Indigenous disadvantage.



That there be established a regular federal parliamentary committee of The Committee's terms of reference should also require it to report on the extent to which the new arrangements in Indigenous affairs comply with human rights based approaches to development and engagement with Indigenous peoples.

The Committee's inquiry processes should be required to maximise participation by Indigenous peoples, including by consulting widely with Indigenous communities and organisations.

The second recommendation seeks to address one of the fundamental policy problems of the new arrangements.

**Recommendation 2: Directed to the Council of Australian Governments, National Indigenous Council and Ministerial Taskforce on Indigenous Affairs**

That there is acknowledgement by government of the importance of a human rights based approach to development in order to effectively implement the new arrangements and the achievement of effective and sustainable improvements in Indigenous living standards and well-being.

This requires acknowledgement of the importance of Indigenous forms of social organisation on the basis of mutual respect and good faith and for supported processes, including through capacity building initiatives, to ensure that the aspirations of Indigenous peoples are able to be voiced.

For example, the new arrangements should be able to provide mechanisms to support viable aspirations of smaller communities located on traditional country (outstations), and to develop appropriate enterprises in order to provide such communities with a degree of autonomy, purpose and stability.

A human rights based approach to development also requires a people-centred approach that aims above all else to produce beneficial outcomes for Indigenous Australians. In order to move the bureaucratic culture away from its current emphasis on compliance, both governments and senior officials within the bureaucracy need to exercise their leadership to ensure the new arrangements prioritise beneficial outcomes on the ground. This will necessarily require a degree of flexibility being incorporated into the design and implementation of policies and programs for Indigenous peoples to ensure that where appropriate, processes can be modified to ensure beneficial outcomes can be achieved. Policies and programs should therefore be monitored and evaluated in terms of the effectiveness of their processes as well as the outcomes they achieve.



The third recommendation relates specifically to the situation of urban based communities and peoples and ensuring adequate monitoring and an evidence base for decisions relating to mainstream accessibility.

### **Recommendation 3: Directed to the Office of Indigenous Policy Coordination**

That, in exercise of its coordination and monitoring role at a whole of government level, the Office of Indigenous Policy Coordination:

- Identify and promote best practice examples of improving accessibility of mainstream services as achieved through individual programs (such as Medicare and Pharmaceutical Benefits Scheme equivalent access arrangements) as well as through whole of government coordination initiatives (such as ICCs and SRAs); and
- Develop its proposed Indigenous urban strategy with the full participation of Indigenous communities and peoples in urban localities, and with the inclusion of explicit targets and benchmarks for improved access to programs.