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Indigenous Governance: Patrick Sullivan  
The Harvard Project,  
Australian Aboriginal  
Organisations and  
Cultural Subsidiarity

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Indigenous Governance:  
The Harvard Project,  
Australian Aboriginal Organisations  
and  
Cultural Subsidiarity

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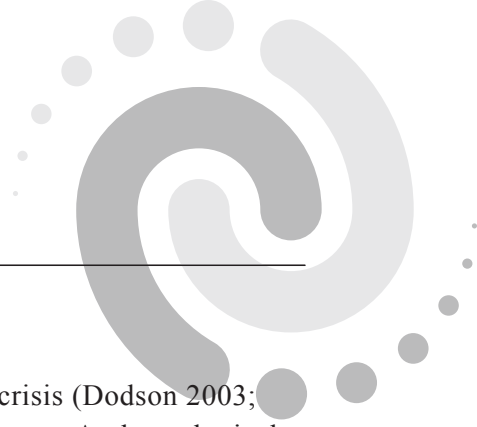
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# Contents

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Introduction	1
Indigenising Post-colonial Governance – the Harvard Principles	3
Origins	3
Implementing the principles	6
Cultural subsidiarity and civil and human rights	12
Conclusion	14





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## Introduction

It is widely acknowledged that Indigenous communities in Australia are in crisis (Dodson 2003; Sutton 2001), and it is increasingly recognised that this is a crisis of governance. Anthropological analysis of pre-colonial Aboriginal political life has characterised it as ‘ordered anarchy’ (Hiatt 1986). The introduction of order into anarchy results from the tension between relatedness and autonomy mediated by an ideology of nurturing (Myers 1986). Colonisation of Australia resulted in the coercion of Aboriginal people into settlements – either missions or pastoral enterprises. Since *de jure* emancipation in the early ’70s, settlements have been nominally under Aboriginal control (Sullivan 1996). The conundrum for post-colonial public policy in Australia, which this paper addresses, is how to effectively service Aboriginal peoples’ needs, encourage the good governance that self-determination requires, institute regimes of respect for civil and human rights within these communities and still remain sensitive to the fact of a continuing lively Aboriginal culture informed by pre-colonial forms of sociality.

The Harvard Project on Indian Economic Development (US) appears to hold out the hope of a post-colonial indigenised governance attractive to both government and Indigenous interests. It proposes that there are three pre-requisites for development in Indigenous communities: sovereignty, good institutions (meaning, in this instance, good management), and cultural match (Jorgensen and Taylor 2000; Cornell 2002; Dodson and Smith 2003). This paper takes the Harvard project’s prescriptions as problems rather than solutions and asks whether they are reconcilable with Aboriginal political life and contemporary post-colonial relations in Australia.

Indigenous communities are clearly embedded in post-colonial settler relations in multiple ways. Authority in Indigenous life, as much as in post-colonial administration, is layered, contextual, contested and continuously subject to exegesis such that both the totality of the settler state and the essentialised nature of Indigenous groups that confront it are called in question (Benhabib 2002; Tully 1995:10-11; Waldron 1992; Martin 2003:2-6). It is not adequate, this paper suggests, to conceive of Aboriginal culture as a set of institutions that can be translated, in one way or another, into effective organisational structures for self-management or commerce. It proposes disentangling Aboriginal cultural processes from effective organisational structures and linking these only through lines of information sharing, and permission-getting, that is, by robust engagements between incorporated organisations and communal political processes (Martin and Finlayson 1996). Added to this is the need for protection of minority and dissident interests by providing guidelines for the acceptable exercise of authority within an Aboriginal domain.

The Harvard approach, and contemporary Australian adaptations of it, blends the idea of good governance as organisational management with a different, though related series of processes, governance as political process, which is inherent in practice rather than solely in organisations or institutions. I will suggest, as has Martin (2003:10-11), that these two aspects of governance should be explicitly de-coupled both for more efficient management and for the greater strength of culture. I will suggest, though, that it is also necessary to use a modification of the principle of subsidiarity to allow for the continuation of tradition-based forms of political practice in communal interaction, where it belongs, and to moderate culture as appropriate for the exercise of civil and human rights. This is a consideration missing from Harvard analyses of cultural match, where blatantly authoritarian and gender-biased institutions pass without critical scrutiny (e.g. Cornell and Kalt 1995:41-47). Consequently, it is possible to argue that functional organisations should put aside concerns about culture. Institutions for the delivery of services and development programs should adhere to universal standards of good management first and foremost. Nevertheless, I argue that culturally informed distributions of power and authority existing within Indigenous groups should influence organisations from without. There should be institutionalised relations, then, between Indigenous political forms at whatever level these are found and functional managing organisations, but there should be no attempt to build a reflection of the cultural/political realm in to these organisations.

There is a risk here, of course, that unacceptable, maladapted cultural forms will have influence over peoples' lives as well as their functional organisations, which raises the question of intolerant societies which is so badly dealt with in liberal social theory. It is clear that factionalism leading to internal disadvantage and oppression is not alien to contemporary Aboriginal settlements. Oppressive practices are sometimes excused as a product of colonialism, and sometimes defended in the name of culture (e.g. Folds 2001). This is a trend that contemporary anthropologists, notably Peter Sutton (2001:1, 145-149); and Martin (2003), have turned their backs on. Martin (2003:8) wrote:

*My own view is that socioeconomic disadvantage, widespread social dysfunction, and fragile, conflict-ridden organisations have certainly resulted in part from the legacy of colonisation, including ongoing exclusion and discrimination. However, the vulnerability of Indigenous organisations is exacerbated and reinforced by particular values and practices which Indigenous people bring to bear in their participation in them. That is, there may be a contradiction between the requirements for 'effective' formal institutions on the one hand, and the robustness of informal institutions of a particular group or society on the other.*

So a necessary part of the argument advanced here is that human rights principles based in liberal values, guaranteeing a group's wellbeing, which are as much desired by Indigenous peoples as by their encompassing states, can be accommodated by interventions that are sensitive to the *degree* to which abuses occur (how widespread they are) and the *intensity* with which they occur (how severe their consequences are). This is an adaptation of the principle of subsidiarity and deals with liberal rights theory's grappling with the problem of non-liberal societies (e.g. Kymlicka 1995:157-172) simply by a long overdue application of common sense. This paper looks for ways of meeting three competing aims: effective Indigenous governance, respect for Indigenous culture, and acknowledgement of the need for human and civil rights within Indigenous communities that reflect the fact that they are embedded in a wider sociality.



# Indigenising Post-colonial Governance – the Harvard Principles

## Origins

The Harvard Project on Indian Economic Development has been operating for about 18 years, based in the John F. Kennedy School of Government.<sup>1</sup> It is associated with the Native Nations Institute, Udall Centre, University of Arizona.<sup>2</sup> Largely, its work has been to produce quite specific papers on particular Native American communities, or particular questions that arise in these communities. Broadly speaking, the work is concerned with relationships between economic development, governance principles and social wellbeing within Indigenous communities. In Australia, the public faces of the Harvard Project are Professor Stephen Cornell, Manley Begay and Neil Sterritt, who have toured several times and presented summaries of their work at Indigenous governance conferences.<sup>3</sup> It is these presentations, and not the Harvard project as a whole, that have been influential in Australian Indigenous affairs in recent years. It is timely that the basis of Harvard's prescription for Aboriginal advancement receives some scrutiny since it has begun to inform government policy, both federally and at the state (provincial) level (Mowbray 2005) and at least two Australian research projects are currently attempting independently to verify its findings in the Australian context.<sup>4</sup>

The key findings of the Harvard Project that have caused enthusiasm in Australia are that sovereignty is very important for development on Native American lands, that good governance is very important, and that culture is very important. The Harvard project proponents tend to summarise this as:

- Sovereignty matters
- Culture matters
- Institutions matter

This paper examines these claims in two ways. Firstly, the genesis of this formula, which is based on the repeated statement that it reflects substantial hours of empirical research in numerous North American communities, is given some scrutiny. Second, and more searchingly, the applicability of these findings, however arrived at, for the Australian case is examined. I raise questions about their internal coherence, about their practicality given our knowledge of Aboriginal traditional governance processes, and about their implications for justice and harmony in Aboriginal settlements.

The three-point formula referred to above is identified by the project itself as its key research finding<sup>5</sup>. It appeared in embryonic form in 1991, was codified in 2000, and continues to re-appear to the present (Cornell et al 2005:4-5; Cornell et al 2004:7; Cornell 2002; Jorgensen and Taylor

<sup>1</sup> See [http://www.ksg.harvard.edu/hpaied/res\\_main.htm](http://www.ksg.harvard.edu/hpaied/res_main.htm).

<sup>2</sup> See <http://www.nni.arizona.edu>.

<sup>3</sup> The Reconciliation Australia Indigenous Governance Conference, Canberra, 3–5 April 2002, and the Building Effective Indigenous Governance Conference, Jabiru, 5–7 November 2003.

<sup>4</sup> The Indigenous Community Governance Project based at the Centre for Aboriginal Economic Policy Research, Australian National University and the Successful Indigenous Communities project based at the Australian Institute for Aboriginal and Torres Strait Islander Studies.

<sup>5</sup> <http://www.ksg.harvard.edu/hpaied/overview.htm> (accessed 28/02/2006).

2000:2–3; Cornell and Kalt 1991:39–40). In Australia, Dodson and Smith (2003) have taken it up. This rather programmatic formula, that is inevitably both product and brand in the academic marketplace, appears first in this particular form in Jorgensen and Taylor (2000:2–3), but traces its origins at least as far back as Cornell and Kalt’s *Where’s the Glue* (Cornell and Kalt 1991:39–40) and in more concrete form in *Reloading the Dice*, published four years from the start of the Harvard Project (1992:2, 64–5 and *passim*). When Jorgensen and Taylor distilled this work into the three-point formula in their 2000 publication they were able to say ‘since then, project Professors, fellows, and graduate students have logged hundreds of person-days on the ground in Indian Country’ consistently leading to these three key findings (Jorgensen and Taylor 2000:1–2). Cornell and Kalt (1992:3) referred to deep analysis of data from 67 reservations, and Jorgensen and Taylor reported on the results of a survey in which more than seventy Indigenous enterprises responded to questions about their management, allowing the authors to make a ‘multiple regression’ analysis. However, neither demonstrates the relationship of the data analysis to the three conclusions reached other than to state that this is their conclusion. The survey reported by Jorgensen and Taylor did not address the three points; rather, it was used to draw the more limited conclusion that enterprises do better where there is no Indigenous political interference (already a finding of Cornell and Kalt in 1991 (1991:39)). Since their paper does not address the Harvard formula in its specifics, the implication that the formula arises from the survey results is difficult to understand.

The political and economic ideologies underlying the Harvard studies, as well as the methodological procedure that routinely conflates correlation with causality, have been discussed recently by Mowbray (2005). They are not the focus here. The power of the Harvard work is its claim to be the outcome of rigorous empirical work. This claim gains momentum with repetition, but it is difficult to interrogate. The origins of the three-point plan in Jorgensen and Taylor’s paper are rather murky. We are told that the paper itself arises from a joint project with the National Congress of American Indians (NCAI) and Alliance Management Systems (Jorgensen and Taylor 2001:1). Indeed, the outcome of that project may have some uses, though its methodology is unusual. The NCAI project mailed out 300 survey questionnaires to individual Indian entrepreneurs and many more to tribal governments. They had a 15 percent response rate, and the majority of responses were from the entrepreneurs. Entrepreneurs’ responses were probably annulled in the results by applying the criteria for success set by the Executive Council of the NCAI, which stipulated tribal ownership as one criterion for selection from the start. In all, the project analysed 74 survey forms, scoring them by five criteria for success, which were provided by the NCAI<sup>6</sup>. It found nineteen successful, and interviewed these to arrive at five characteristics (NCAI 2001:77–78). It reported in summary form on the nineteen case studies of successful Indian organisations and found that success depends upon: diversification of markets, providing security for business partners and investors, positive relationships with banks, independent board of directors, and non-traditional (i.e. government or equity) financing NCAI (2001:75). This doesn’t have much to do with sovereignty and culture but does say something, albeit limited, about institutions. Having introduced their paper with this study, Jorgensen and Taylor (2001:1–2) then refer to the ‘hundreds of person-days’ the Harvard Project has logged ‘on the ground in Indian Country’ before introducing their three keys to development as consistent findings.

<sup>6</sup> The criteria for success set by the Executive Council of the NCAI were, in summary: number of jobs created, tribal ownership, reservation-based, financially stable, length of operation. Since tribal institutions responded in lower numbers than individual entrepreneurs it is likely that these criteria reduced the eligibility of many of the 74 respondents (NCAI 2001:78).

These three principles are not related to the NCAI study. The claim that sovereignty matters is supported by reference to two sources, one of which is in an academic journal. The claim that culture matters is supported by reference to two unpublished manuscripts by Jorgensen, and three Harvard papers, which I will briefly review here. The claim that institutions matter is unsupported by reference to data but it is argued, reasonably enough, that successful ‘tribal governments’ have good dispute resolution, they separate government from commercial activity, and have effective administration underpinning their legitimacy (Jorgensen and Taylor 2000:3).

The best referenced claim is that culture matters. It ‘is a resource that shores up the strength of government and has concrete impacts upon such bottom line results as forest productivity and housing quality’ (Jorgensen and Taylor 2000:2) The substantial works cited in support of this are three Harvard Project papers *Where’s the Glue?* (Cornell and Kalt 1991), *Constitutional Rule* (Cornell and Kalt 1993), and *Heterogeneity* (Cornell and Kalt 1995). I will refer to them sequentially and, to make matters simpler, by this coded form of their title.<sup>7</sup> Reviewing these works, we find that, in *Where’s the Glue?* (Cornell and Kalt 1991), the authors begin with a brief description of four Indian situations – The Crow (unsuccessful), The White Mountain Apache (successful), the Pine Ridge Sioux (unsuccessful), and the Mississippi Choctaw (successful). These are hardly referred to again in the paper, which then concentrates on conclusions from studies of the Salish-Kootenai of Flathead and the people of Cochiti Pueblo (also the subject of their *Heterogeneity* paper (Cornell and Kalt 1995) and Begay and Cornell’s (2003) Australian conference presentation). They also draw on, they tell us, 400 person-days of research in a ‘selected sample’ of reservations over a decade, producing 225 research papers (Cornell and Kalt 1991:20) as well as analysis of economic data from over 70 tribes (1991:26)<sup>8</sup>. While this sounds impressive, many of the Harvard papers simply restate the findings of previous research. It is questionable, then, whether it has the power of cumulative evidence, or whether it has the status only of the original assertion. In assessing employment and income growth, they find that General Council governance (which may conform most closely to Australian settlement experience) works poorly, and strong-legislature governance performs slightly better than strong chief-executive government, though they have some reservations about the applicability of their sample across all cultural forms (1991:32-33).

In *Constitutional Rule* (Cornell and Kalt 1993) the authors compare the Oglala Sioux, who are generally impoverished, to the White Mountain Apache, who are doing quite well. They find that Sioux social organisation is not well-adapted to the predominant form of governance encouraged by the settler bureaucracy, while that of the Apache is (Cornell and Kalt 1993:32, 42; Begay and Cornell 2003). While they find Sioux contemporary governance ‘counterproductive’ (Cornell and Kalt 1993:43), they are not forthcoming on what to do about it; although, in *Reloading the Dice*, they suggest small-scale localised manufacturing, retail and service businesses, and tourism might work (Cornell and Kalt 1992:58; also Cornell and Kalt 1991:33). They do not suggest cultural adaptation is an appropriate solution. In the final paper referred to by Jorgensen and Taylor as support for point two of the three-point plan, *Heterogeneity*, Cornell and Kalt (1995:48) concluded that strong community government insulated from politics is required to control ‘rent-seeking’, a euphemism for corruption. It analyses the cultural basis of strong government in two Indigenous

<sup>7</sup> Jorgensen and Taylor referred to versions of the papers published in journals. The versions available from the Harvard Project Website are more accessible. These are referred to on the site as pre-print versions of the published work and are dated earlier. These are referred to in this paper.

<sup>8</sup> This may be a reference to analysis of the raw data of the 74 respondents of the NCAI study.

cases. It proposes that these two cases are economically successful because of their strong governance institutions even though these are quite divergent, and therefore that the critical factor is that they accord with pre-colonial social organisation. I will return to this point when considering ‘cultural match’ below.

A critique of the assumptions and conclusions of the Harvard studies appears below; here I am scrutinising the source of the three-point formula now so popular in Australia, and questioning whether it really is an outcome of, rather than a hypothesis informing, detailed empirical work. The Harvard Project studies are an impressive body of work, but two things are apparent: the link between the conclusions and the data is, at best, not demonstrated, and the conclusions of the papers themselves are considerably more complex than the three-point formula inherited by Australia. The conclusions of its early work were that commercial enterprises should be operated by strong institutions that have a measure of cultural legitimacy, and that shield decision-makers from the demands of their political constituency. They are not concerned with the social justice implications of such strong governments. They do not address the question of how to encourage appropriate political institutions that are divorced from strong enterprise governance, and they are not enlightening about what to do when culture clearly does not match the needs of enterprise – when organisations are either illegitimate or legitimate but unsuccessful. In the early work, there is a tendency to find generalised good-management principles, such as the separation of powers, in the traditional forms of governance of successful Indian enterprises.

In Australia, communal governance tends to occur only for the delivery of municipal services to settlements. There is little Indigenous enterprise. Where there is, for example pastoral station operations, there is a tendency for it to be run by a single family, usually with a strong family head. There are, however, Aboriginal functional organisations such as health services, media services and land services. These can have some of the aspects of communal governance rejected by the Harvard studies – a governing council subject to communal special interest pressures, although this varies from case to case. The striking problem for Aboriginal governance is the effective provision of municipal services and the regulation of public order in settlements or over regional networks of settlements. It is for such cases that the Harvard three-point formula is seen as a way forward. I suggest below that this is an inappropriate adaptation of the findings since it confuses governance as political life with governance as good functional management.

Taking the three points at face value, we can ask: Do they have internal coherence or sense, and do they apply to the delivery of services for Indigenous Australia? The three-point formula has been seized upon for application to Australia because, on the Indigenous side, it seems to demonstrate that development (which all can agree is a ‘good thing’) proceeds from sovereignty, or relative autonomy. To government, the Harvard research promises to make Indigenous communities, especially remote communities, good subjects of development by instituting good governance while at the same time protecting ‘culture’. Far from the win-win-win promise that it holds out, the Harvard formula encapsulates the problems that I address here.

## Implementing the principles

In this part of the paper I examine whether the principles can be implemented even within their own terms, and at the same time I assess their post-colonial credentials. Put simply, the argument is: If processes for good governance as understood in contemporary terms exist in Indigenous cultural practice there is no need for intervention, nor would we see the dysfunction that has been publicly acknowledged for at least twenty years (e.g. von Sturmer 1982; Sullivan 1986; Rose 1986; Sutton 2001; Dodson 2003). If, however, Indigenous political systems are incompatible with mainstream good management, are inappropriate or simply do not engage with good development practice, how can they be acknowledged?

At first glance, the principles are apparently based within a post-colonial thematic that argues for de-colonisation of Indigenous peoples and the recognition of Indigenous practice in community governance and development (e.g. Marsden 1994; Nicholson 1994; Moreno 2005). In fact, the researchers are also much committed to allowing for free flows of capital into Indigenous communities, utilising the Indigenous labour resources, linking communities to market networks and contesting communalism. It is a measure of their abilities in promoting their work that they manage to meet both of these disparate agendas. In Australia, the Harvard studies are generally interpreted as offering a solution to a widespread concern of post-colonial development: How to implement Indigenous governance that is respectful of cultural norms, responsive to local wisdom and at the same time delivers practical outcomes that reassure institutional investors. We must note that the first principle, sovereignty, is not as contentious a term in North America as it is in Australia. The idea that some measure of sovereignty is retained by Indigenous nations in North America is commonplace and in some cases is reflected in the law such as the different tax status that some North American Indian communities enjoy. It is reflected also in ownership of resources such as timber, and in self governance arrangements in some areas, for instance in the operation of Native American courts. Yet Australians are wary about importing this concept of sovereignty from America into the Australian situation since there is substantial political sensitivity attached to it. This has been evident in the current Australian government's response to the question of self-determination of Indigenous peoples during debates over the draft Declaration on the Rights of Indigenous Peoples. 'Sovereignty' in Australia, like 'self-determination', is glossed as 'separatism', another failed policy of the left-socialist past (e.g. Hughes and Warrin 2005). In the current political climate, sovereignty – the word rather than the concept – is a conservative backlash trigger of some intensity (as are 'racism', 'genocide' and cultural rights in general). Where the Harvard work has been used in an Australian context, the word 'sovereignty' has been dropped in favour of other terminologies such as 'political jurisdiction' (Dodson and Smith 2003:9). The Harvard studies in any case are not primarily concerned with the structural relationship that Indigenous peoples have with the state. Cornell and Kalt's intention is to address the control that people have over their own lives and the control that they have over the activities that happen in their communities (e.g. Cornell and Kalt 1992:14-15; Cornell 2002:2, 4-5).

What Cornell and Kalt said, is simply that if people have control of decision-making over the activities that are going to happen on their lands, and some control over the benefits of that activity, then they are likely to make much better decisions. The idea of sovereignty as expressing political rights asserted by one group against another, and so control over resources and territory, is as foreign to the Harvard studies as it is to current Australian thinking. Cornell and Kalt are correct, of course. Where people are asked to make decisions without any real control, they may make extremely irresponsible decisions because of lack of repercussions on the decision-maker; or they

may make decisions with good will that are nevertheless ill informed; or decisions may be made by those who just don't care one way or another. This is very common in Australian Aboriginal communities that are continually subjected to 'consultation' about what they think about something that is about to happen, without any control over whether it will happen (or, indeed, whether they think that something else ought to happen). The results of consultation are inconsistent since those affected have no real control over the course of the project or its outcomes.

What the Harvard project found is not surprising: Where people really feel that they are able to have some effect on a proposal, and that the results of their decisions are going to have some long-term effect on themselves, then they will think about it much more seriously and will get better information about it. They probably also tend to take more balanced and more conservative decisions. When that happens over a period of time there is a 'feedback loop' of experience, where decision-makers learn from their last decision and use that experience to make the next one. They get better and better at understanding how to make good decisions. What Cornell and his co-researchers propose is that, if external operators want to get good, balanced and productive decisions out of Aboriginal communities, good for the external players as much as the community itself, then they have to relinquish much external control to the communities (Cornell and Kalt 1992:14-15; Begay and Kalt 2002:3-4; Cornell and Kalt 1998:29-30). Clearly, that message goes down very well among Indigenous groups in Australia.

There is another reason that the Harvard project theorists tend to take a simple and instrumental interpretation of the term sovereignty. They are not concerned with political relations (although they have clear political sympathies that tend to construct communities as largely self-referring and discrete nationalities, a multicultural perspective recently criticised by Benhabib (2002) which I address below with reference to Kymlicka (1995; 2001)). They are also not primarily concerned with the existence of significant commercial resources. Where they depart quite radically from other development studies is in the identification of governance processes as crucial to development, not the ownership of resources with commercial value (Cornell and Kalt 1998:4-5). This is an interesting corrective to development thinking, but can be overstated, particularly in the Australian situation. It is worthwhile to reflect on what the project was about at the outset. It is called the 'Harvard Project on Indian Economic Development' because it was a project primarily about how to get good commercial developments to happen on Indian lands. Such developments should benefit the communities on those lands, addressing some of the very pressing needs of poverty, and also take some of the strain off the state in meeting needs through welfare. It is important to understand where the Harvard project researchers began from when addressing good governance because it explains their conflation of governance as management, with governance as political life. Their approach to good governance is founded in standard business management principles. To attract beneficial investment to Indian lands, risk must be controlled (Cornell and Kalt 1992:26). Where there is poor governance, there is high risk. Investment either is not attracted, or, where it is, then the investors will want to see a much greater return from this more risky environment. If a community puts in place good processes of governance, it will see the converse. It will attract more investors, those that found it too risky in the first place. Also, investors can be persuaded to take less of a return because they can be assured that their investment project is less likely to fall over and cause them to lose everything. As well, they can be assured that it will go on for a longer period of time so they can put in place better plans and not be rapacious. This is what

the Harvard Project originally aimed to encourage: Reduce risk by good governance and attract investment to Indigenous lands (Cornell and Kalt 1991; 1992; 1998). The existence of commercial resources is at best secondary, and possibly irrelevant, in the Harvard conception.

This raises two difficulties for applicability to Australian remote communities. The first of these is simply that it is difficult to raise any community's capacity to be self-governing unless it has a clear idea of what it is governing for. Good processes cannot be encouraged in the abstract; they must be constructed in concrete activities of development, maintenance and servicing. Secondly, it is, in fact, relevant that Aboriginal lands have been returned under various legislative programs of the last three decades largely where these lands are unused by non-Indigenous interests and have little or no productive potential. The same is true of the few cases, such as in Arnhem Land, where Aboriginal peoples have managed to retain their original lands since colonisation. Taking into account the level of need, the cost of development because of location, the difficulty of multifactorial development (everything depends on everything else, because everything is at such a low base) there is not much potential for commercial activities of such significant scale that they will lift the levels of material wellbeing to something approaching the general Australian standard. Admittedly, this can change over time as new opportunities arise. Recently, there has been a big rise of opportunity in tourism, for instance, that was not evident a decade ago, and the potential for marketing Indigenous art has also expanded enormously. Even in 'old' industries like mineral resource extraction, there can be new technologies for exploration and production that can make previously unattractive areas prospective. Commercial opportunities are not absolute but are relative to other developments. In general, though, it is the case that the reason that there are still large numbers of Indigenous persons in any particular place across the country is because so far nobody else has wanted it. The corollary is that the involvement of the state in Aboriginal development has always been high.

Taking this into account, Cornell and Kalt go one step further, and this is where the Harvard approach is particularly questionable for Australia. Harvard principles assume, without much examination, that just the same benefits from reducing risk for commercial development also flow to government interventions (Cornell and Kalt 1992:61-63; Cornell 2002:9; Begay and Kalt 2002:4-6).<sup>9</sup> Does reducing risk for government encourage it to put more money into a community or regional area? If there is good governance in a community, can its leaders go to government and say, 'give us a program here in an area of need', and be confident that government will? At the least, will its officials positively discriminate in relation to another group not operating within the same kind of governance framework? Clearly, the answer is – no. Government has different principles of rationality to those at work in business. Quite often it will not put its resources into groups that are well-organised and perhaps could make good use of them for a range of internal policy reasons, for instance the fact that the group seems to be managing well in comparison with others. The corollary is that government has to address locales of glaring need that its personnel may be well aware are socially dysfunctional. The governance of liberal democracies is firmly founded in the rhetoric of equitable distribution of benefits across a region or throughout the country. Where commercial models are used, these are presented as simply a more efficient way of implementing this principle – though of course there may be considerable scepticism about this. In Aboriginal affairs, the establishment of equity usually requires bureaucratic intervention. Favouritism, where it occurs, may have more to do with Indigenous ability to manipulate

<sup>9</sup> This is also implicit in Dodson and Smith's (2003:4-6) adaptation of Harvard principles for 'sustainable development' rather than simply for commercial enterprise.

government than the inherent worth of a project. Non-productive non-commercial skills at manipulating government policy flow-ons have been encouraged through decades of welfare interventions. The Harvard project's arguments are not convincing when it spreads itself out from its original area of concentration, in commercial development, to applicability across the board to every kind of development activity in Indigenous communities.

The third point that the Harvard studies stress is that culture matters (Jorgensen and Taylor 2000:2; Begay and Kalt 2002:3). Development requires not only a measure of self determination/control and good-governance structures, but also that these good-governance structures match with the culture of a community that is the development target. The concept of 'cultural match' has become the current mantra in many areas of remote Australia.<sup>10</sup> The terminology is problematic. When we investigate what it is that the Harvard project is actually suggesting, we find firstly that its researchers are not suggesting importing traditional forms of activity into modern organisations (Begay and Kalt 2002:3). Yet this is the interpretation put upon cultural match by Australian development agencies and those community workers involved in facilitating community governance organisations. Neil Sterritt, an Indigenous Canadian associated with the Harvard project, is one such facilitator in his own country, yet his approach to good governance is quite standard public affairs administration good practice (Sterritt 2003). The Harvard studies overall are concerned with transparency, accountability, the ability of the membership to recall the leadership, keeping good records, and similar basic matters. Similarly, the Indigenous American, Manley Begay, who regularly tours with Cornell and Sterritt, explains that cultural match is not concerned with tradition so much as the principle of legitimacy (Begay and Cornell 2003). Clearly, this is why the Harvard project is as attractive to government as it is to Indigenous political interests. It offers a way to insist on standard governance practice in Aboriginal communities, and to do so in the name of culture and autonomy without, so far, addressing the contradictions inherent in this approach. Cultural match is a problematic response to every researcher's experience of Indigenous voices – that development processes 'need to follow our culture'. This is not unique to Australia, but is a refrain of post-colonial development everywhere (e.g. Marsden 1994; Nicholson 1994; Moreno 2005). The message is strong, motivating the need to build it into the Harvard model. There is an obvious problem: purely traditional practices cannot be built-in to the kinds of governance structures that Harvard promotes because they are obviously quite distinct ways of doing things adapted to other ways of life at another time. If traditional practice already had those good-governance principles, good governance for the contemporary world would not be an issue in Indigenous communities. Yet, if traditional practices are not compatible with modern good governance principles, how much can adaptation occur and still produce 'cultural match'?

The question can be first posed as 'On which side should adaptation occur?' Clearly, there is not much room for compromise on the non Indigenous side in principle, because good governance is, apparently, identifiable, and anything else is bad governance. How much can bad governance be tolerated in the name of cultural match and still adhere to risk-reducing development principles? The answer, in the Australian context, is – not much. As detailed below, cultural match as interpreted in Australia can lead both to bad governance and an inherently oppressive reductive codification of a complex culture. The Harvard project scholars, on the other hand, avoid these difficulties in the fine print of their model where they stipulate that, far from importing traditional

<sup>10</sup> This is currently undergoing amendment to the term 'cultural legitimacy', partly in recognition of the difficulties discussed here (Smith 2005:17–20). It nevertheless still requires interrogation of both the terms 'culture' and 'legitimacy' in their applicability to Indigenous governance.



cultural forms, cultural match simply means having some form of culturally sanctioned legitimacy. In this way, they side-step an important problem in their work – what to do if culture does not match; what if, indeed, as Martin and Sutton and others have argued, culture is the problem? The argument seems to be that, in traditional functional societies, culture legitimated the forms of governance, and therefore anything that legitimates can stand in for culture where culture itself is clearly maladaptive or does not exist in pre-colonial form. Legitimacy is the way out, so the idea of legitimacy itself needs some interrogation.

Legitimacy is one thing; cultural match, or the attempt to find cultural match, as it has been interpreted in Australia is another. Legitimacy is a good deal more flexible as a principle. It could be said, for instance, that the pastoral station owners and the non Indigenous stockmen in the pastoral lands of three decades ago had a degree of legitimacy in Indigenous eyes, at least in the running of the pastoral station. Similarly, the missionaries had some legitimacy in ordering life on the missions. Though neither pastoralists nor missionaries had legitimacy beyond these areas. Legitimacy is contextual. Where an ability to assert power is legitimate in one context or in one area of activity, it can be completely inappropriate in another. It also can vary over time. Legitimacy can be withdrawn. It becomes even more slippery when we ask ‘Legitimacy in whose eyes?’ An organisation may be legitimate to one part of a group and may be a completely spurious authority in the cultural expectations of another part of the group. The foundations of legitimacy, what is legitimate at any one time, and what it is legitimate to do, require some complex analysis to move beyond the basic requirement that an organisation ‘have legitimacy’.

Legitimacy is the underpinning of cultural match, at least in the Harvard Project writings. What we get in Australia is another thing altogether. It is the idea of cultural match which looks for some pre existing form of organisation, institution, political authority or distribution of power, and then attempts to import the reflection of this into the developmental or service delivery organisation. At the same time, these functional organisations that run settlements or regions become the bearers of the relative autonomy promised by this model because of their apparent reflection of this political structure. The development organisation then stands in place of the social group that is its target and subject. There are considerable problems with this misreading of the Harvard project. It is something that is done, with the best of intentions, because Indigenous peoples do say, ‘we want this organisation to be in keeping with our culture, our way of life, the things that are important to us’. Development facilitators charged with constructing these organisations in consultation with ‘the community’ (the tautology is evident) take a mechanical mix-and-match approach that is inherently un-anthropological. It is an approach that asks ‘how can we take bits of that and put it in here?’ This is of particular concern currently, because it is now apparently going on with all the authority of the prestigious Harvard project’s cultural match behind it.<sup>11</sup>

First, Aboriginal culture is not constituted in such a way that it can be reflected in effective modern organisations in any deep sense (although congenial symbolism and toleration of an informal culture within the organisation may be another matter). Second, to do so is an ill-considered act of modernisation that potentially does violence both to continuing cultural practice as well as to principles of good governance. Third, the important question of social justice within Aboriginal communities is neglected by concentrating only on the efficiency and cultural appropriateness of functional organisations. While the first and second of these points would bear considerable

<sup>11</sup> An example of this tendency is described for the Thamurrar region by Ivory (2005).

analysis, it is the third that I want to turn attention to here. Functional organisations may reflect, support, or at best turn a blind eye to, oppressive practices within their membership or constituency. The conundrum of liberal multiculturalism encouraging anti-liberal practices has been badly dealt with by those that Castoriades derides as exhibiting the ‘... euphoric schizophrenia of the intellectual Boy Scouts of the past few decades, who preach both the rights of man and the idea that there is a radical difference among cultures that forbids us from making any value judgments about other cultures’ (Castoriades 1997:30). There is a considerable literature on this question (Kymlicka 1995; 2001; Tully, 1995; Barry; 2001; Benhabib; 2002). Among these Tully offers the most flexible and adaptable approach for the recognition of diversity in Aboriginal polities while at the same time accepting that they are embedded in wider liberal societies.

What emerges from Tully’s critique of modern constitutionalism is an alternative in which actors are self-identifying and adhering into groups in a multiplicity of ways that arise not from ascription but out of the nature of their interrelatedness. Groups so constituted are not isomorphic one with another in any sense. They are diverse in their histories, concerns, tasks, effectivity, coherence and stability over time and context, and their members are mobile, potentially taking up positions in various collectivities. Such groupings, he proposes, are not to be unduly interrogated as to their composition and legitimacy. They present themselves; a discourse takes place; understandings are reached. Cross-cultural inequity and oppression arise from forcing such freely constituted associations to constitute themselves in terms dictated by the modern state. Implicit in this approach is that agreements may not be reached, understandings may remain elusive, actors may continue to pass each other by. Lacking the certainty of structure, such an approach may appear to be unworkable, but it is in fact supremely pragmatic; it produces change only in what is pressing and contingent and, ideally, only as far as is required. In practice, these are the circumstances in which many non-state nations and sub-nationalities find themselves today. Dealing with them as such, recognising this as an authentic expression of human sociality with an ancient lineage, and refraining from imposing structure that does violence to their nature - this is Tully’s argument for contemporary constitutionalism. Tully’s approach is reflected in my argument for decoupling culture from functional management of Aboriginal organisations, but it does not deal with the need to protect international norms of human and civil rights in the unincorporated polities that remain.

Recognising and communicating with existing authority systems in the community at large does not mean taking a complacent view of the operation of ‘traditional’ culture and its effects, in modern settings, on the wellbeing of sub-groups within the society. Partnerships for Indigenous development proceed from an acceptance of Indigenous rights, whether these are conceived of as equal to those of other citizens or as arising from cultural uniqueness. Yet it is not acceptable that developmental rights be implemented at the expense of other human and civil rights. To deal with this, without requiring massive assimilationist cultural change, it is useful to elaborate a principle of cultural subsidiarity.

## Cultural subsidiarity and civil and human rights

The principle of subsidiarity was developed for the governance of Catholic religious communities. It seeks to allocate to central authorities decisions that transcend local particularities, yet at the same time guarantee to regions the right to set policies that reflect regional priorities (Cass 1992). Delors (1998) summarises the principle as ‘never entrust to a bigger unit anything that is best done by a smaller one’. It is also often stated as being the principle of decision making as close to the level of the individual citizen as is appropriate for the circumstances. Recently, in the context of the European Union, it means that higher authorities should make decisions or implement programs where it is more efficient or appropriate for them to do so than a multitude of lower authorities (Cass 1992). I would add to this, for our purposes here, not only the need for a concept of appropriateness of governing activity to the level of the governed, but also appropriateness of the type of intervention for the seriousness of the activity to be governed. I will elaborate on this point here, since I think that it has the potential to get us out of many relativist difficulties.

It seems to me that the principle of subsidiarity is admirably pragmatic. It rejects the assumption inherent to philosophical enquiry and particularly inhibiting in political philosophy that ‘one size fits all’. That is, if, after your enquiries, a position is found to be right, it must be carried through to the point where it meets, inevitably, its own practical absurdity. There are many spheres of life where liberal-minded people agree the rote application of liberal principles is oppressive: in many family matters, between lovers, in the realm of art, and in religious experience, to mention only a few. Cultural subsidiarity requires leadership outside of functional organisations, which sets both the desired goals of the people and sets limits to the scope of autonomous action.

To take a concrete example, Ralph Folds (2001) has usefully described how a remote Aboriginal community can subvert development interventions to its own culturally determined ends. It uses housing, sanitary equipment, vehicles, even schools in ways that replicate traditional processes in a modern setting. The result to non-Indigenous eyes is evident squalor and malaise, yet Folds convincingly uncovers the vibrant social system underlying, even actively producing, this apparent dysfunction. This is a useful interpretation, but it is only half the story. At the same time as wishing to subvert, transform, appropriate and reinterpret non-Indigenous interventions for development in their community, the people also wish for incompatible outcomes. They do want their children to be educated in non-Indigenous skills such as English; they do want good health for themselves and their families; they do not complacently accept family violence and rampant substance abuse; they would prefer that their equipment functioned better for longer. In short, they require two incompatible versions of the good life. It is the role of leadership, communally recognised authority, and not of development organisations, to bring sense to those who demand the impossible, to determine how far non-developmental aims will be acceptable, and to limit the realms within which non-liberal, non-western forms of activity will go unregulated. Recognition of subsidiarity is useful here. It allows for relative autonomy within wider governance systems, and differs from the concept of devolution in that it recognises rights inherently lying at the local level, rather than conceded from above (cf. Smith 2002).

This leads me back to my argument for an alternative approach to Indigenous governance in Australia to that proposed by the Harvard studies. If Tully is right, it is both oppressive to impose non-Indigenous constitutions on Indigenous collectivities, and unnecessary. They should be recognised, treated with, but remain incorporated in their own distinct ways that need no translation into a corporate structure. This is very similar to the argument I would advance for a de-coupling

of the corporate governance of functional organisations from the political expression of a deep and complex range of cultural processes. My conclusion echoes that of David Martin (2003:10; also Mantziaris and Martin 2000:126-8) who similarly came to the view that de-coupling cultural processes from efficient organisational structures is required both to do justice to the Aboriginal polity and to provide effective services. Martin (2003:10) wrote:

*The more that attempts are made to reflect the complexities and subtleties of the values and practices of Indigenous people in formal corporate structures and processes – for example, regarding such matters as authority and decision-making, or the various forms of the typically labile Indigenous groupings and sub-groupings – the more there is the risk that over time the formal corporate structures and processes will supplant the informal Indigenous ones – a process of the ‘juridification’ of social relations. While ... the engagement of Indigenous and non-Indigenous people can best be understood in intercultural terms, ‘juridification’ takes this a step further, raising the problem of the underlying social relations being distorted or dominated by the legally enforceable expression of the same relations.*

And (2003:11):

*Arguments for 'cultural appropriateness' should not displace the overriding need for organisational structures and management processes to facilitate strategic engagement with the general society. Equally, arguments for Indigenous 'self-determination' should not displace the necessity for competent management. It is typically assumed that the indigenisation of organisations equates to self-determination ... . However, I suggest that because such organisations do not lie within a distinct and autonomous Indigenous realm but rather within a contested intercultural field, we are provided with a position from which to question this assumption.*

Two inadequate approaches to the conundrum of recognising local culture and yet encouraging efficient administration are often attempted. In the first, an informal organisational culture is allowed to develop that is said to be more in keeping with Indigenous norms. As a result the organisation is deemed more culturally congenial and therefore, it is implied, better able to respond to local needs and implement programs in a culturally sensitive manner. This condemns Indigenous peoples to incompetent implementation of communal programs, and often results in a trade-off of benefit to the organisation's personnel at the expense of their members and clients. It is ripe for the abuse of power. It may be preferable, however, to the second approach, which is to import the most easily assimilable, superficial and apparent elements of an imputed Indigenous social structure into the organisational structure in the name of Indigenous knowledge or, in Harvard project terminology, 'cultural match'. These solutions include the relatively benign adoption of the nomenclature of local groups, places or traditions for communal organisations, and authority figures for functional positions. When they institute such roles as headman, clan leader, tribal boss, the ubiquitous 'elder', moiety or sub-section relations, gender and age divisions, sometimes using their vernacular expression, they become more of a liability for the membership itself. This approach has two problems. First, it institutionalises ineffective governance in a much more inflexible way than allowing an informal culture of the organisation to adapt to local conditions. Second, it codifies a simplified westernised modernist understanding of a complex multilayered, contextual, mutable and inherently negotiable traditional practice. So it robs the people of their culture in the name of their culture while at the same time institutionalising bad management. Third, by concentrating on the organisation at the expense of the society, problems of social malaise, poor leadership, oppression and exploitation in the society itself are swept under the carpet.

## Conclusion

How are these shortcomings to be avoided? First, we need to distinguish between management and governance. Second, we need to find a set of principles for dealing with the relation between the two. Third, we need to include the principles for a balance between cultural autonomy and adherence to universal values of human and civil rights that I have outlined here. A developmental or service delivery organisation should not be conflated with an institution of self-government. It needs neither a representative structure nor should it attempt to mimic local cultural forms. The representative structure is not required because the function of representation continues to happen where it belongs, in the cultural milieu of the community, and in the forms appropriate

to the culture. Attention should turn away from representative structure (in service-delivery organisations) and towards means of communication, information transfer (in both directions), monitoring of consent, and effective policy input from the client/ membership/constituency. This means seeking authority wherever it lies, whether in institutions, families or particular individuals and encouraging sound leadership. Such an approach does not mean abandoning a community to oppressive practices. Through establishing principles for acceptable standards according to the level of relations in question (family, local, regional etc), and the intensity of the inequalities experienced, autonomy is both guaranteed while at the same time its limits are set.

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