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The Aboriginal community sector and
the effective delivery of services:
Acknowledging the role of
Indigenous sector organisations

Patrick Sullivan

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Introduction

This is the second in a series of three papers on servicing remote Aboriginal communities for the Desert Knowledge CRC. The first paper suggested that bureaucratic control of programs for servicing desert settlements is inherently too slow in responding to demand, inefficient in the application of resources, and prone to errors introduced through long supply chains. This paper proposes that the direct suppliers of services to desert communities, the organisations in the Indigenous sector,¹ have been neglected as an essential component of any plan for improved services. All facets of existence in remote communities are affected by at least one, and often many, Aboriginal not-for-profit organisations. Yet, as the third paper in this series will discuss, they receive little attention in the current policy environment established by the National Indigenous Reform Agreement (COAG 2008). This current paper makes two related points about the sector: firstly, that it has distinct characteristics that deserve recognition (see Rowse 2005); but, secondly, that it is also a unique part of the not-for-profit sector in general. The not-for-profit sector has an important role in Australian public life (see Productivity Commission 2009a). Organisations within the sector often struggle in an unfriendly political and regulatory environment (see Sullivan 2009) and the Indigenous sector shares many of the problems of the sector as a whole. This paper aims both to describe the dimensions and importance of the Indigenous sector, and to explore its position in relation to mainstream community not-for-profit organisations in general. The final paper in this series will argue that the current policy environment established by the National Indigenous Reform Agreement is remiss in neglecting some three decades of experience accumulated by the Indigenous sector and in redirecting the Commonwealth's responsibilities, which the sector has fulfilled as a proxy, towards state and territory governments.

According to the anthropologist Philip Batty, the establishment of an Aboriginal community service sector in the early 1970s, following the extension of administrative power to the Commonwealth in the referendum of 1967, can be traced to the prescience of CD Rowley (Batty 2009). Rowley 'argued that a more effective way of governing Aboriginals would be through the creation of what he termed "Aboriginal companies". He suggested that the state should provide the framework through which these companies could be established and directly subsidized. He also proposed that the government should "hand over to them [such] special welfare activities as they agree to operate"' (Batty 2009). The policy environment of the early 1970s was in a similar state of uncertainty to the one we see today. Decades of stable relations between Aboriginal people and the Australian state, mediated through missions and state native welfare departments, were ripped up, seemingly overnight. Even the responsible minister declared that he did not understand what the new policy of self-determination was all about (Batty 2009). The newly established Aboriginal Advisory Council, particularly the great facilitator Nuggett Coombs, seized upon Rowley's suggestions as a way forward (Batty 2009). While some Aboriginal organisations can trace their origins to the Aboriginal advancement associations of the early twentieth century, formed in response to discriminatory legislation (see e.g. Maynard 2007), after the referendum of 1967 the Aboriginal services sector as a nationwide phenomenon began to develop. During the 1970s the Commonwealth, through its Council for Aboriginal Affairs, encouraged Aboriginal groups to incorporate explicitly to circumvent state governments and began to directly fund the delivery of community development programs (Coombs 1984:25–28). At the same time, and as part of the same generally progressive trend, the Woodward Aboriginal Land Rights Commission recommended in 1974 that the Commonwealth create a statute for simple incorporation of Aboriginal groups to administer land held in trust. This indirectly gave rise to the *Aboriginal Councils and Associations Act (ACA) 1976*, though by the time the legislation had passed through Parliament it was far from simple. The late 1970s and 1980s saw a rapid expansion of Aboriginal self-

¹ As described below, this paper adopts Rowse's (2005) term 'Indigenous sector' to refer to Indigenous not-for-profits.

help organisations, many of which incorporated under the ACA Act. The Act was recently superseded by the *Councils (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act) which, although aiming to be more adaptable and accessible, is considerably longer and more complex than the original.

There are about 2700 organisations currently incorporated under the CATSI Act. There are at least as many incorporated under various state regimes, or the Corporations Act (2001)² (Corrs Chambers Westgarth 2002:24). The vast majority of these are non-commercial organisations. An estimate of 5000 organisations in the Indigenous sector is conservative. Matching known Aboriginal organisations to a map of Aboriginal service centres within the arid and semi-arid areas (Taylor & Bell 2004:24) produces a figure of 1035 organisations in this geographic region. As these service centres are remote, and typically lack the depth of government agencies and other not-for-profit service providers found in more settled areas, Aboriginal organisations are likely to be the source of the large majority of available services. The sector is comprised of distinct service domains:

- Community-controlled Aboriginal Health Services
- Aboriginal Legal Services
- Multi-purpose ‘resource agencies’ and outreach services targeting dispossessed town fringe groups and homeland communities
- Arts and media centres, radio and television broadcasting stations, musicians’ cooperatives and dance companies.
- Community-controlled schools and education advisory or lobby groups
- Communal councils, holding and administering Aboriginal land, providing municipal type services
- Land councils, sometimes as statutory bodies, in other cases as voluntary advocacy organisations
- Language research and maintenance centres
- Sports associations
- Environmental ‘caring for country’ collectives, such as ranger programs
- Communally owned pastoral and farm industry organisations.

These sub-categories of the Indigenous sector themselves harbour considerable diversity. They are largely established on the model of a voluntary association where a membership elects a governing council to administer benefits for members and wider constituents. Some organisations cross-fund their social aims with commercial activities. For example, an Aboriginal Medical Service may pay for its doctors by bulk-billing Medicare (though most rely instead on direct grants). Some, such as the Ngaanyatjarra Council, operate fee-for-service building, transport, accountancy and security services. Fees, in this case, are normally paid from grants by government agencies to the member communities that employ the Council’s services. In common with many larger Aboriginal organisations Ngaanyatjarra Council is also a trustee, sometimes through a subsidiary, for trusts that have commercial operations. Several organisations use this model to invest in commercial enterprises on behalf of members, to whom they distribute benefits. Many community organisations also operated Community Development Employment Projects (CDEP) registers and subsidised their service functions by using CDEP workers.³

² A database of Indigenous sector organisations currently under construction by AIATSIS presently counts 4800 organisations. This has been compiled from the Commonwealth Office of the Registrar of Aboriginal and Torres Strait Islander Corporations register and some public directories. It does not yet include a large number of organisations incorporated under state associations legislation.

³ The CDEP programme is being wound up (<http://www.fahcsia.gov.au/sa/indigenous/progserv/families/cdep/Pages/default.aspx>). This threatens the viability of many of these organisations unless their workers are re-engaged under standard employment contracts.

Early findings from current research undertaken by AIATSIS suggests a significant number of groups incorporate under state associations acts or as cooperatives – particularly in NSW and Victoria where cooperatives legislation allows for ‘community advancement’ (see Lyons 2001:87), though their numbers are difficult to gauge due to the opacity of state registers. Other Aboriginal and Torres Strait Islander-controlled corporations have been created by statute. ATSIC was possibly the most prominent example of this type of structure, and the Land Councils of the Northern Territory and New South Wales were also created by statute, as are the Native Title Representative Bodies. Communal governance organisations in the Northern Territory had statutory functions until the recent transition to local government, and similar statutory arrangements operate in Queensland. Some Aboriginal organisations have avoided the voluntary association model to retain tighter control over an organisation, yet still with a strong social purpose. The Yarnteen Corporation in Newcastle (NSW) is a successful example of a corporation limited by guarantee (Smith 2008). In contrast to the mainstream not-for-profit sector (Lyons 2001:18) a much lower proportion of Aboriginal voluntary associations remain unincorporated. There are, however, examples of influential organisations that have deliberately chosen not to incorporate to avoid political intervention in their activities, such as Murdi Paaki in NSW (Jeffries 2008).

Following the introduction of the Native Title Act (1993) some existing organisations were transformed, and others brought into existence, as statutory Native Title Representative Bodies (NTRBs) to advance members’ recognition of common law title. Uniquely, the Regulations to the Act prescribe that groups recognised as holding native title must incorporate under the CATSI Act. This is arguably a discriminatory requirement (Calma 2007). These Registered Native Title Bodies Corporate (RNTBCs) are an increasing feature of the Aboriginal corporate landscape. Their statutory functions under the Act are limited, but their responsibilities as land holders are vast. Currently there is no stable funding provision to ensure that they can carry out either their statutory functions or their landholder responsibilities.

Arguably, statutory organisations are not part of the community sector, since they are established by legislation. If this is the case it may be necessary in Aboriginal and Torres Strait Islander affairs to extend the boundaries of the sector, since statutory organisations can have many of the characteristics of community organisations. For example, they often have boards of directors elected by their membership (as did ATSIC and, currently, the land councils). Their functions, also, can include provision of services and advocacy similar to community voluntary associations. Statutory organisations, though established by government, are relatively independent. This, after all, is their rationale. Governments intend that, by establishing them in legislation, they will perform a quasi-governmental function in an area that good public administration determines requires substantial independence. This is tempered by the fact that, in distinction to other community sector organisations, statutory authorities have functions, powers and reporting requirements imposed upon them by their own legislation, and exist ultimately at the discretion of the government. This can lead to an uneasy relationship where independence is informally compromised by the shadow of legislative amendments or dismissal. Aboriginal and Torres Strait Islander organisations may get more robust protection by entering mainstream processes than by retaining their unique Aboriginal and Torres Strait Islander status.

One example of this is control of local government authorities. Local government is a particular form of statutory authority. Its importance as the de facto third tier of government is recognised, although it has no constitutional basis and is established by state legislation. Some form of Aboriginal or Torres Strait Islander local government exists in Western Australia, the Northern Territory and Queensland (including the Torres Strait Islands). Although the recent transition in the NT from statutory community councils to local government authorities has been surrounded in controversy, in principle

Aboriginal and Torres Strait Islander people may gain both greater control of their own affairs and greater protection from arbitrary governmental interference by transitioning from the community association model to a form of local government.

Comparative dimensions of the third sector and the Indigenous sector

Aboriginal and Torres Strait Islander affairs policy making should recognise the importance of Indigenous sector organisations for three reasons. It is the critical ingredient in Aboriginal and Torres Strait Islander people's material security, an expression of Aboriginal and Torres Strait Islander political identity, and an appropriate modernisation strategy with the evolution of an Aboriginal and Torres Strait Islander civil society. The political dimension of Aboriginal and Torres Strait Islander-controlled organisations has received more public attention than their service delivery functions. This is one of the reasons that their contribution to the Australian not-for-profit sector has been ignored. With more than three decades of experience in a very challenging field the sector is still barely acknowledged for its contribution to Aboriginal and Torres Strait Islander development. It is rarely seen as a distinctive nation-wide network, and consequently it is under-resourced and lacking support in government planning. Part of the reason for this is historical. The sector got its greatest impulse during the period when policy was formulated under a banner of self-determination, and this encouraged its fragmentation. Self-determination was least challenging for settler interests if it was seen as essentially local self-governance. The practical delivery of services appeared as a subsidiary effect of the aspiration for a distinctive but politically dependent status in the Australian constitutional landscape. Each community service organisation largely struggled, and continues to struggle, alone. There are still few regional, state, or national coalitions of organisations working in a particular service or field of endeavour, and their influence is slight in comparison to their non-indigenous counterparts. Still less are the disparate fields of service, whether health, arts or land, for example, seen as having anything in common with each other. Consequently they are not given much attention as an important, though distinctive, part of the Australian not-for-profit sector as a whole.

Tim Rowse proposes that Indigenous not-for-profits so distinctly constitute a separate socio-political alignment that he calls the Indigenous sector. It is characterised by the fact that it derives so much of its funding from government, and delivers such a large proportion of government-type services to Aboriginal and Torres Strait Islander people, that it is in some respects a liminal arm of government. Yet, he says, the importance of Indigenous sector organisations goes beyond their service function to the core of social rights in a liberal democracy. He develops the argument that Indigenous not-for-profits are the primary means for most Aboriginal and Torres Strait Islander people to make themselves visible as citizens within the polity of which they form a small minority (Rowse 2005:210). While most non-Aboriginal and Torres Strait Islander people can feel comfortable that they are recognised as contributors to social and political life simply in going about their normal business, Aboriginal and Torres Strait Islander people have no such confidence, and require corporate expression of their identity, their needs and their interests. While Rowse is undoubtedly correct in describing what makes the sector distinct, he necessarily gives less attention in this paper to the considerable convergence of interest that it shares with the mainstream not-for-profit sector. Referring at the end of his analysis to the work of public sector theorist Elaine Martin, Rowse leaves this avenue for further development (Rowse 2005:227).

Following Lyons (Lyons 2003:2 cited in Productivity Commission 2009b:7), not-for-profit organisations, charities and cooperatives are often referred to as 'the third sector'. Dividing modern societies into three sectors is simplifying, but can be useful. The public sector loosely conforms to the

state in classical political theory, the private sector to the market, and the third sector to civil society. The third sector embraces enduring and formal associations of people who aim to provide a social benefit to their members and/or clients. The Indigenous sector is a distinct category within the third sector. The scope of the Indigenous sector, the functions it undertakes for members and clients, encompasses most aspects of community life. There is roughly one not-for-profit organisation for every 90 Aboriginal and Torres Strait Islander citizens. This is a crude calculation, but serves to illustrate in raw terms the prominence of communal organisations in Aboriginal and Torres Strait Islander life. While non-Aboriginal and Torres Strait Islander people tend to have choice about whether they will use a not-for-profit organisation, for many Aboriginal and Torres Strait Islander people it is the only service choice, and practical representative voice, available. Aboriginal and Torres Strait Islander people, particularly in rural and remote areas, depend upon their organisations for essential services such as primary health care and public housing. Basic services such as these are normally delivered to the mainstream population by government, or through government-sponsored private enterprise (see Dwyer et al. 2009).

The importance of the advocacy and community development functions of Indigenous sector organisations is a point of difference from the mainstream. The Indigenous sector's emphasis on self-empowerment coupled with material progress is rarely achieved in the third sector as a whole (Lyons 2001:38). The emphasis on advocacy also suggests a role in the formation of policy to address Aboriginal and Torres Strait Islander disadvantage: as service providers implementing policy, and as consumers evaluating the effectiveness of policy in practice (Melville 2008:108). The Indigenous sector shares many of the concerns of the mainstream sector. It should be better integrated into prominent advocacy forums, such as the Australian Council for Social Services (ACOSS). Nevertheless, despite similarities, the Indigenous sector as a whole must also be regarded as distinct. Two of the reasons for this have already been alluded to. The sector delivers services that normally are the province of government agencies, and the sector is the principal form of engagement between mainstream Australia and Aboriginal and Torres Strait Islander people. It has no direct counterpart since it is a service provider, frequently a form of communal or local level governance, and the major expression of Aboriginal and Torres Strait Islander civil society. Aboriginal and Torres Strait Islander organisations are the basis of civil society for cultures that in the past had no use for such a concept. They are both drivers of positive social change and manifestations of such social change. This last point is important for the improved effectiveness of government policy goals. As public attention focuses on the 'dysfunction' of Aboriginal communities, and government programs are increasingly delivered by mainstream processes, Aboriginal and Torres Strait Islander civil society institutions need support and encouragement as the foundation of Aboriginal and Torres Strait Islander modernisation. Instead they are in danger of increasing neglect.

Third sector organisations under new public management

It is unfortunate for Aboriginal and Torres Strait Islander groups that government mainstreaming policy is dragging them into the general ambit of the third sector at a time when the sector itself is most challenged and undermined. The Indigenous sector is struck by the same sense of malaise as mainstream third sector organisations (see Productivity Commission 2009a). Although they are subject to all of the insecurities that third sector representatives currently deplore, Aboriginal and Torres Strait Islander community organisations remain under-represented or unrepresented on peak mainstream coordinating and advocacy bodies. Their development is occurring on a parallel non-intersecting course. There is little or no communication or coordination across the Aboriginal/mainstream divide. Indeed there may be developing competition as mainstream third sector organisations see opportunities for expansion into Aboriginal and Torres Strait Islander areas.

Yet they face the same challenges. Since the third sector and the public sector have a symbiotic relationship, reforms in public sector management in recent decades have seriously affected the third sector, including Indigenous sector organisations.

In the 1980s and 1990s the public sector was subjected to institutional reform in most Anglophone countries, and the third sector inevitably became part of this. Until then, community-based service organisations, such as the member organisations of ACOSS, had assumed there was an enduring place for them as an essential part of civil society in any democratic polity. They had, perhaps without adequate self reflection, an understanding of themselves as natural service providers, closer to the people than government, particularly to the poor and disadvantaged, requiring a place at the table in the policy making process, and taking responsibility for advocacy in their areas of concern. The public management reforms of two decades ago, under the rubric 'New Public Management' (NPM), questioned all of these assumptions (see Sullivan 2009). Governments firstly asked whether this was the most cost-effective way of providing services, increasingly introducing commerce into the mix by requiring competitive tender for the provision of services. Proponents of this purchaser/provider approach argue that it is more accountable, as commercial contracts require monitoring and acquittal against performance indicators. The performance indicators, or contract terms of reference, make accountability more transparent, but also reduce or remove the advocacy role of third sector organisations. At the same time they often put organisations with a history of pastoral care into conflict with themselves, since part of the service demanded by government can be to regulate and discipline the disadvantaged client group. Advocacy tends to attract the displeasure of government, both its political and administrative wings, as it assumes an alternate base of power with its own grass-roots legitimacy. Community groups now frequently complain the Australian Government uses its funding to silence the voice of dissent in civil society, and freezes dissident organisations out of the policy-making process in order to further more easily its political program. At present, many community sector organisations in Australia are embattled and dispirited (Keen 2006, Hancock 2006, Hamilton & Maddison 2007, Barraket 2008). Many practitioners, in Australia and internationally, now question the wisdom of becoming captive to government through contracted service delivery. These concerns have heightened significance for the Indigenous sector: their community-based mission is arguably stronger and more credible, their dependence on government more pronounced, and the consequences of poor performance for their members more severe.

Government ambivalence towards the Indigenous sector

The government's view of the relationship is more sanguine than the one I have expressed. Shergold, Departmental Secretary Prime Minister and Cabinet under the Coalition Government, said:

The administrative reforms that have marked generational change in the APS, often characterised as the 'new public management', have been extolled, debated and criticised. But, beneath, something far more profound has happened almost unnoticed. Governance has been democratised. The elements of this quiet revolution are clear enough. There is increasing competition in the delivery of services to government and on behalf of government. Benchmarking, market testing and contract management have become a staple of public administration. The provision of policy advice has become contestable. The delivery of public policy has been outsourced. Such developments are now the standard fare of public service commentary.
(Shergold 2003)

In Aboriginal and Torres Strait Islander affairs, consensus on the benefits of outsourcing to Indigenous sector organisations is not so apparent. They were seen as part of the problem when the Howard government took office. The Prime Minister's first press conference was called to announce an audit of all organisations funded by ATSIC. After two terms in office they were still a clear target of Minister Vanstone's comments in a speech at the National Press Club, where she said:

The history of these [Indigenous] services is that they've been provided through Indigenous organisations. Some do a tremendous job but there has been waste, there has been corruption and that means service provision hasn't been what it should be. If we continue to regard these organisations as untouchable and unaccountable we are failing our Indigenous citizens yet again.
(Vanstone 2005)

This Indigenous sector poses a problem for any government. Government is clearly in need of the positive attributes which the Indigenous sector shares with other third sector organisations, such as local wisdom, community credibility, expertise acquired through practice, and not least the willingness of its staff to work for less material reward and under more difficult conditions than public sector staff (Dwyer et al. 2009:41–42). Yet the pool of individuals and organisations that have these attributes is the same as that denigrated and regarded with suspicion at the political level of government. This mistrust must be turned around. Aboriginal and Torres Strait Islander community-controlled organisations are the hidden ingredient for the success of government Aboriginal and Torres Strait Islander development objectives. In rural and remote Aboriginal and Torres Strait Islander communities in particular, few services are delivered directly by government. Even the core cadre of street-level bureaucrats – teachers, nurses and police – is provided by, or supplemented in partnership with, community-owned schools, community-controlled health services, and local night and dawn patrols or wardens. In most Aboriginal areas municipal services (water, sewerage, electricity, roads), housing and maintenance, and welfare payments, are handled entirely by Indigenous sector organisations.⁴ The strategic importance of the sector as a whole is unrecognised in the government policy process, and the individual services that comprise the sector are under-valued. It is a complex sector, and with more support could make a wider contribution to the public good.

Regulating the Indigenous sector

While the Indigenous sector which underpins Aboriginal and Torres Strait Islander development is largely unacknowledged, it is paradoxically over-regulated (see Dwyer et al. 2009, Sullivan 2009). Regulation takes two forms. There are rules imposed by the legislation that an organisation incorporates under, and there are conditions imposed by the various sources of an organisation's funding. The first of these forms of regulation and control is the less onerous, but may still be inappropriate or ineffective. In return for the benefits of incorporation, principally limiting the individual liability of members if things go wrong, the law requires minimum standards of reporting to members and the general public, and usually also imposes some rules for transparent governance of the organisation. If an Aboriginal and Torres Strait Islander organisation incorporates under the Commonwealth's CATSI Act, it is subject to explicit imposition of rules for its structure and for its

⁴ This is changing, perhaps fundamentally. A third paper in this series will outline the challenges to Indigenous service organisations posed by the policy of 'normalisation', which encourages more direct service delivery by state and territory governments.

reporting. Failure to abide by these rules can result in the Office of the Registrar of Aboriginal and Torres Strait Islander Corporations (ORIC) de-registering the organisation, or appointing an administrator. The CATSI Act does allow for different types of reporting according to the scale of the organisation, and the role of ORIC is often couched as enabling rather than punitive. Alternative forms of incorporation, under state associations acts, are available to Aboriginal and Torres Strait Islander organisations (see Productivity Commission 2009a:6/4). These may suffer from too little administration, rather than too much. In comparison to the ORIC register, it is difficult to access information about the corporate structure and responsibilities of Aboriginal and Torres Strait Islander organisations incorporated under state laws, and the ability or willingness of state regulatory offices to intervene to protect members' interests is patchy at best.

The second tier of regulation and control of Indigenous sector organisations is through grant funding contracts. In general these impose more onerous reporting requirements, and more intrusive intervention in the affairs of the corporation than the statutory requirements of incorporation laws. The Indigenous sector is particularly vulnerable to inefficiency and inappropriate service delivery because of its reliance on government funding, and consequently remotely conceived policies, and remotely administered regimes of regulation and accountability. The burden lies both in continual application for grants on an annual cycle and continual multiple reporting for their acquittal. Standardising the application procedure would be the simplest part of reducing this burden, and therefore increasing the efficiency of organisations, but this has not been well achieved even within the single jurisdiction of the Commonwealth. The previous government attempted to introduce a standardised online application procedure for Aboriginal and Torres Strait Islander program funding called 'eSub'. Some five years after its introduction most Commonwealth-funded Aboriginal and Torres Strait Islander programs are not available for eSub application.⁵

If the Commonwealth has not been successful in standardising grant applications, it has been less so in standardising reporting requirements once a grant has been achieved. Grant applications are assessed by each Commonwealth agency separately, matching them to a wide range of programs each with different aims and requirements. While standard contracts may result, each has particular schedules attached, often with multiple ill-matched reporting requirements and timelines. Some headway has been made in the area of primary health care through OATSIH's Strategic Development and Reporting Framework, though this is still incompletely implemented. Dwyer et al. have recommended that risks for both funders and providers be better managed through reduced transaction costs, simplified reporting, more effective data sharing, and the security of longer-term contracts (Dwyer et al. 2009:59). They propose that relational (or alliance) contracting is often more appropriate than classical purchaser/provider contracts (Dwyer et al. 2009:53–57). The recent intergovernmental National Partnership Agreement on Remote Service Delivery also promises to integrate application and reporting requirements across all service agencies, including those belonging to state governments. This agreement is yet to be implemented in the twenty-nine identified trial communities, and general applicability is a long way off.

This corporate and bureaucratic regulatory environment has several serious effects on the sector. Firstly, it is inefficient. Multiple parallel strands of long command lines, each with many desks to

⁵ The eSub portal lists six programs 'available using the eSub kit'. Each of the six is a hyperlink to the web pages of other Commonwealth agencies. Some programs described on the subsequent web pages are not available for eSub but require competitive tender (e.g. http://www.ag.gov.au/www/agd/agd.nsf/Page/Indigenouslawandnativetitle_Indigenouslawprograms_LegalaidforindigenousAustraliansprogram). Others, such as the native title representative services program, do not lead to any direct grant funding information. The eSub portal also provides a link to other government Indigenous programs, which number some thirty-five, some of which offer their own application processes for funding, while others are simply descriptive of government initiatives <https://www.indigenous.gov.au/eSub/PublicPages/ProgramInformation.aspx> [accessed 04/01/2010].

traverse in both directions from the local area to the centre of management, are inherently wasteful. It is also frustrating for all parties. It is arguable whether it increases accountability, and any apparent benefit here must be weighed against the cost. A secondary effect is that many organisations rely on staff with professional skills in grant applications and administration to broker large grants to ensure the financial sustainability for organisations. Other staff who may offer skills in grass-roots communication can feel marginalised by the managerial language and corporate practices of the sector unless they have adequate support and training. Sometimes the organisation as a whole can become alienated from its client/member base because increased numbers of professional employees do not adequately recognise the existing community-oriented skills of Aboriginal and Torres Strait Islander staff, the membership and the board. To some extent this tendency can be offset by increasing the responsibilities, and commensurate skills, of the Aboriginal and Torres Strait Islander work force within Indigenous sector organisations.

Addressing Aboriginal and Torres Strait Islander disadvantage in employment

The Indigenous sector has great potential for meeting priority development goals through the personal development, training and employment of Aboriginal and Torres Strait Islander individuals. Over the last thirty years many individuals, most with only rudimentary formal educational achievements, have come up through the ranks of Indigenous sector organisations. This has been an organic development, but it requires greater formal recognition and encouragement. The contribution of this sector to Aboriginal and Torres Strait Islander skills has two broad dimensions: increasing understanding of governance issues through participation as members and on directors' boards, and fundamental job skills through employment at all levels from field workers to management.

Indigenous sector organisations are major employers of Aboriginal and Torres Strait Islander people. In some cases this is supplemented by CDEP positions, but in many instances community organisations provide standard forms of employment. The situation varies widely among the organisations. Some in specialist areas, such as native title or health, typically have Aboriginal or Torres Strait Islander employment mainly at the top and bottom of the organisation – the senior management or executive and the clerical staff. Others are much more inclusive across all levels of the organisation. While already at significant levels, there is considerable room for improvement in employment and training opportunities. This is dependent both on levels of government funding and on employment conditions. Delivering government programs through Indigenous sector organisations increases employment opportunities, and should be coupled with encouragement of Aboriginal and Torres Strait Islander employment and training strategies across the sector.

The Indigenous sector offers career paths for people of ability with little formal training who may transition to employment, often initially through CDEP, and work their way to managerial levels and then influence in national forums. This contributes to the self-esteem and prestige of Aboriginal and Torres Strait Islander people and has intangible role-model benefits for youth, while contributing to the social health of the nation as a whole. It is also an important source of income for Aboriginal and Torres Strait Islander families (Altman and Taylor cited in Rowse 2005:207), even though salaries and service conditions in Indigenous sector organisations are lower than the public service and commercial organisations (Dwyer et al. 2009:41–42). These conditions act as a brake on the positive effects of Indigenous sector employment. Employees also do not enjoy comparable opportunities for off-the-job training and skills development because of the lack of funds and the day-to-day urgency of

the problems they deal with. Not surprisingly, the public service at both state and Commonwealth levels finds a fertile recruiting ground among those who have gained their skills either as directors or as employees (and often both at different times, or in different organisations). Australian governments siphon off valuable individuals seeking greater security and remuneration, often because of their obligations to their families. Tertiary educational institutions, and the Aboriginal and Torres Strait Islander public they wish to serve, suffer here also. The poverty associated with long periods in tertiary education and the low salaries available to junior academics and research staff combine to trap highly competent individuals in either their not-for-profit sector organisations or their public service positions. For the benefit of their communities, governments should commit themselves to funding community-sector positions at comparable levels to their own personnel. They should provide greater support for training within organisations and salary continuity during tertiary studies. Flexible arrangements for secondment in both directions, from public service positions to community organisations and the reverse, should be increased. Legislation to ensure the portability of employment entitlements, such as superannuation, leave and salary increments should be explored.

Aboriginal and Torres Strait Islander civil society and wider civic engagement

The personal development of Aboriginal and Torres Strait Islander individuals, and the social development of their communities, are intimately tied to the health of the Indigenous sector. Aboriginal public policy is currently formulated against a backdrop of public commentary on 'dysfunction' and social collapse in remote Aboriginal communities (e.g. Sutton 2009). Indigenous sector organisations offer an important antidote. They are the institutional framework of Aboriginal and Torres Strait Islander civil society and at the same time the principal means of Aboriginal and Torres Strait Islander civic engagement with the wider world. Aboriginal and Torres Strait Islander people, in the remote areas, do not achieve their understanding of civic engagement with the wider society from schools or through the media, but through engagement with their local organisations. They have developed sophisticated practical understandings of the benefits of participatory engagement through the election of office holders and through holding office in community service organisations, and have also acquired specific skills in governance. Good governance skills have broad applicability as they embrace issues of probity in the conduct of directors and their organisations. Balanced against this is a sophisticated understanding of the need for representation of constituencies and adaptation to cultural protocols. Wider still, participation in Indigenous sector organisations has enabled an understanding of governments and their bureaucracies and the development and implementation of policy. At the local and regional level Indigenous sector organisations have developed valuable relationships with other citizens as well as with service agencies such as the police, the judiciary, health workers and educationalists. Governing board members also commonly develop expertise in the particular sub-sector that their organisation services, such as health, education or native title.

These positive developments are continually threatened by the fragile nature of government grant-funding cycles, consequent employment insecurity and low levels of remuneration. While their local partners tend to view relationships with Indigenous sector organisations and personnel as enduring alliances, in reality the organisations are fragile unless they receive formal recognition of their important service delivery roles. Two current developments may improve this situation, though at first they seem contradictory. In its substantial draft Research Report issued in 2009 the Productivity Commission proposes reforms to the third sector in general, with standard Commonwealth legislation

and reporting requirements for the entire sector, seeking comment on whether this should include Aboriginal and Torres Strait Islander organisations (Productivity Commission 2009a:L). At the same time the independently established Congress of Australian First Peoples has built Indigenous sector organisations into its representative model (Australian Human Rights Commission 2009). If successful, both of these proposals will tend to bring Indigenous sector organisations in from the shadows of Australian public life, their geographic isolation and their sectoral ghettos.

The Indigenous sector functions well in the context of the challenging needs of its member/client base and its relative lack of material resources. Its development in the last three decades is testimony to the resilience and capacity of Aboriginal and Torres Strait Islander people in their communities. It has acquired a unique position as both a provider of governmental services and an expression of Aboriginal and Torres Strait Islander cultural identity within Australian society. Both of these aspects require support. Government approaches to the sector should go beyond its treatment as simply a sub-contractor for the implementation of policy, recognising that one of its important 'services' is its ability to constitute a uniquely Aboriginal or Torres Strait Islander component of the nation as a whole, particularly at the local and regional levels. Because of its importance in providing fundamental life-sustaining services it requires greater levels of funding than it presently receives, and higher levels of support for professional employment and training in order to meet its heavy responsibilities. Apart from material support, one way that the effectiveness of the sector can be increased with little cost is by more appropriate approaches to regulation, greater devolution of policy implementation to the sector (which would cut out some of the supply-line barriers) and streamlined standardised reporting procedures. This requires an intangible change in relations between the sector and government: the nurturing of an environment of trust between them.

References

- Australian Human Rights Commission. 2009. *Our Future in Our Hands: Creating a Sustainable National Representative Body for Aboriginal and Torres Strait Islander Peoples*, AHRC, Sydney.
- Barraket J. 2008. *Strategic Issues for the Not for Profit Sector*, University of NSW Press, Sydney.
- Batty P. 2009. A Record of Confusion, Failures and New Beginnings: (De)Constructing Aboriginal Community-controlled Organisations, paper delivered to the *AIATSIS Conference Perspectives on Urban Life*, The Manning Clark Centre, Australian National University, Canberra, 29 September – 1 October.
- Calma T. 2007. The CATSI Act 2006. *Native Title Report 2007 of the Aboriginal and Torres Strait Islander Social Justice Commissioner* (pp.113–137). Human Rights and Equal Opportunity Commission, Sydney.
- COAG (Council of Australian Governments). 2008. Available from: *Intergovernmental Agreement (IGA) on Federal Financial Relations*.
http://www.coag.gov.au/intergov_agreements/federal_financial_relations
- Coombs HC. 1984. *The Role of National Aboriginal Conference*. Australian Government Publishing Service, Canberra.
- Corrs Chambers Westgarth. 2002. *Review of the Aboriginal Councils and Associations Act 1976*, Consultation paper. Corrs ChambersWestgarth, Sydney.
- Dwyer J, O'Donnell K, Lavoie J, Marlina U and Sullivan P. 2009. *The Overburden Report: Contracting for Indigenous Health Services*, Cooperative Research Centre for Aboriginal Health, Darwin.
- Hamilton C and Maddison S. 2007. Non-government Organisations. In Hamilton C and Maddison S (Eds.) *Silencing Dissent: How the Australian Government is Controlling Public Opinion and Stifling Debate*, Allen and Unwin, Sydney.
- Hancock H. 2006. Bringing in the Community Sector: Partnerships and Advocacy. In Colebatch HK (Ed.) *Beyond the Policy Cycle: the Policy Process in Australia*, Allen and Unwin, Sydney.
- Jeffries S. 2008. 'Good Governance in a Traditional Sense' or 'Traditional Governance in a Good Sense'. *Governance Lecture* 18 September 2008. University of Canberra, Canberra.
- Keen S. 2006. Non-Government Organisations in Policy. In Colebatch HK (Ed.) *Beyond the Policy Cycle: the Policy Process in Australia*, Allen and Unwin, Sydney.
- Lyons M. 2001. *Third Sector: The contribution of nonprofit and cooperative enterprises in Australia*. Allen and Unwin, Sydney.
- Maynard J. 2007. *The Fight for Liberty and Freedom: the Origins of Australian Aboriginal Activism*, Aboriginal Studies Press, Canberra.

- Melville R. 2008. 'Token participation' to 'engaged partnerships': Lessons learnt and challenges ahead for Australian not-for-profits. In Barraket J (Ed.) *Strategic issues for the not-for-profit sector* (pp.103–124). UNSW Press, Sydney.
- Productivity Commission. 2009a. 'Contribution of the Not-for-Profit Sector', Draft Research Report, Productivity Commission, Melbourne.
- Productivity Commission. 2009b. *Contribution of the Not-for-Profit Sector*. Issues Paper, Productivity Commission, Melbourne.
- Rowse T. 2005. The Indigenous sector. In Austin-Broos D and Macdonald G (Eds.) *Culture, economy and governance in Aboriginal Australia* (pp.207–223). Academy of the Social Sciences and the Department of Anthropology, University of Sydney Press, Sydney.
- Shergold P. 2003. Two Cheers for the Bureaucracy: Public Service, Political Advice and Network Governance. Paper presented at the *Australian Public Service Commission Lunchtime Seminar*, Canberra, 13 June 2003. http://pandora.nla.gov.au/pan/53903/20051109-0000/www.pmc.gov.au/speeches/shergold/australian_bureaucracy_2003-06-13.html
- Smith D. 2008. The Business of Governing: Building Institutional Capital in an Urban Enterprise. In Hunt J, Smith D, Garling S and Sanders W (Eds.) *Contested governance: Culture, power and institutions in Indigenous Australia* (pp. 205–232), CAEPR Monograph No. 29, ANU E Press, Australian National University, Canberra.
- Sullivan P. 2009. Reciprocal Accountability: Assessing the Accountability Environment in Australian Aboriginal Affairs Policy, *International Journal of Public Sector Management*, 22 (1): 57–71.
- Sutton P. 2009. *The Politics of Suffering: Indigenous Australia and the end of the Liberal Consensus*, Melbourne University Press, Melbourne.
- Taylor J and Bell M. 2004. Continuity and Change in Indigenous Australian Population Mobility. In Taylor J and Bell M (Eds.) *Population Mobility and Indigenous Peoples in Australasia and North America* (pp. 13–43), Routledge, London.
- Vanstone A. 2005. Minister discusses changes to the handling of indigenous affairs and the establishment of the National Indigenous Council, Address to the National Press Club, Canberra February 23rd. Available from: <http://parlinfo.aph.gov.au/>.

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