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New and emerging challenges for Native Title Representative Bodies

J.D. Finlayson

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Summary

- The Aboriginal and Torres Strait Islander Commission (ATSIC) currently funds a total of 25 Native Title Representative Bodies (NTRBs) nation wide. These bodies are the primary means of delivering services to indigenous claimants seeking determinations of native title rights. The present ATSIC Board of Commissioners have agreed to an increased funding allocation to native title matters in the 1998/99 budget. This means that the Native Title Program will receive a total allocation of $47.155, million elevating it's significance considerably within ATSIC's funding and administration.
- However, while the increased funding commitment recognises the importance of land rights issues for the indigenous constituency, ATSIC, the National Native Title Tribunal and some Aboriginal groups are concerned about the capabilities of some NTRBs to provide a professional, viable and competent service in an increasingly complex legislative and legal domain.
- The argument of this paper is that the 1995 ATSIC Review of NTRBs provided a window of opportunity for establishing sound administrative praxis for NTRBs, but their recommendations were only adopted to a limited extent. However, ATSIC has also implemented a number of strategies, including performance monitoring and reporting, training and education, peer reviews and recently, service agreements to improve and support NTRB organisations. Unfortunately, as in the past, many of these mechanisms have had limited success in leading to organisational change. Why is this?
- The paper suggests that, by and large, indigenous organisations operate through exclusively indigenous concepts of process, accountability and ideas of communal good, and that these concepts often diverge from external, non-indigenous views of process. An additional limitation is that self-determination often forms the prevailing context of administration and management at many levels of indigenous governance and decision-making.
- In the author's view, a radical change in organisational culture is ultimately only possible through the exercise of the political will of the ATSIC Board as a top-down approach, coupled with ancillary support strategies, such as monitoring and reporting mechanisms, organisational reviews and other options ATSIC program administrators can provide. The solution to effective service delivery lies, in part, in ensuring that indigenous organisational and management principles are inclusive of mainstream management expectations which relate to accountability and notions about 'the greater good'.

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Introduction

This paper examines key challenges facing Native Title Representative Bodies (NTRBs) four years after the establishment of the *Native Title Act 1993* (NTA), and prior to the commencement of the *Native Title Amendment Act 1998* (NTAA) and the implementation of changes outlined in the new legislation.

The analysis owes much to the author's field observations as an anthropological consultant engaged by NTRBs and, consequently, is inclusive of the variations in contemporary organisational practice while also highlighting broad similarities and common policy implications.

Three major challenges face the current 25 NTRBs. Two of these challenges, namely, reforming organisational processes and recognition of the strategic role of NTRBs, are interrelated. The former has been a commonly discussed theme across the corporate spectrum of Aboriginal service and community organisations (see Dillon 1992, 1996; Rowse 1992; Sanders 1993a, 1993b; Martin 1995; Sullivan 1996).

The third challenge, that of authenticating or signing off on claims and contractual agreements under terms specified in the NTAA, is increasingly likely to require prioritisation by NTRBs of some forms of Aboriginal group identity over others. This is an emergent issue for NTRBs, although one which the Central and Northern Land Councils have met over many years (see Smith 1984).

I have problematised discussion of these three challenges by posing three questions:

- Are changes in structural processes and administrative program procedures and performance reporting sufficient and necessary to improve NTRB strategic performance and client accountability?
- If indigenous community organisations are fundamentally and essentially driven by internal cultural dynamics, is their corporate culture malleable to the demands of other parameters, (such as program/service outcomes, performance indicators and quality control)?
- Finally, where does native title fall in the policy arena? Are native title issues the medium of self-determination or of something else; and is service provision a more appropriate forum for achieving action in native title matters in the future?

Organisational practice

An initial premise in my argument is that for many Aboriginal people, in settled Australia especially, native title represents a significant window of opportunity to participate as stakeholders in mainstream economic development. Second, that many NTRBs, in line with the Aboriginal and Torres Strait Islander Commission's (ATSIC) own philosophy, see native title as an opportunity to implement self-

determination. Consequently, some NTRBs treat claimant groups as autonomous decision-makers with authority across a range of matters affecting claim research and mediation procedures, including overall responsibility for progressing their claims. Unfortunately, such an approach can result in hands-off procedural practices and arguments over entitlement and access under a rubric of social justice (see Merlan 1994: 12–27).

A further point linked to questions one and two, is that many NTRBs are currently performing neither adequately nor appropriately; indeed, frequently many are dysfunctional. For example, informal evidence indicates that a high proportion of native title claims are proceeding outside the umbrella of many NTRBs. There are various reasons for this. In some, although limited, cases, areas do have a determined NTRB (for example, north-west Queensland, Tasmania). In other situations, claimants have strategic reasons borne of local politics for by-passing the NTRB; just as independent action can reflect a high level of dissatisfaction with the existing NTRB.

In identified cases of poor performance a range of approaches and solutions have been suggested and tried. Generally, most proposals highlight some form of organisational restructuring, support through administrative and managerial training, the application of funding restrictions by ATSIC, or consideration of more appropriate legislative regimes for incorporation and development of the constitution. The extensive analytical literature in relation to performance and governance issues for incorporated Aboriginal organisations attests to the perennial interest in these matters (see, for example, Rowse 1992; Altman and Smith 1994; Smith 1994; ATSIC 1995; Finlayson and Smith 1995; Fingleton 1996; Finlayson 1997).

Aboriginal people have also identified what they see as root causes of poor performance. Aden Ridgeway, formerly of the New South Wales Aboriginal Land Council (NSWALC) for example, when responding to the Independent Commission Against Corruption (ICAC) inquiry into corruption in regional and local New South Wales Aboriginal land councils, argued these were a product of hierarchical structures which concentrated power in the hands of the 'largest Aboriginal families' (*The Australian*, 29 April 1998). His less-than-cost-effective solution was to replace the heads of each council with a board of directors. Another Aboriginal commentator told ICAC that immense problems were caused by lack of consultation between land council executives and their constituents, especially when coupled with poor accountability mechanisms (*The Australian*, 29 April 1998).

In this paper I consider the question of what happens if the reforms fail? What if we assume, as case material suggests, that no amount of tinkering with organisational issues actually brings about sustainable change, reform or transformation? What if we were to assume that indigenous adherence to internal cultural and political dynamics had, and has, greater force and attraction than the reform measures? What, in such circumstances, would be a reasonable means to ensure effective professional service delivery?

Review of the NTRBs

I argue a number of reasons for revisiting the ATSIC Review. First, because its timely delivery into the policy realm provided an opportunity to nurture strategic and successful NTRBs. Second, the ATSIC Review, in common with a number of subsequent reviews and assessments, has failed to significantly impact on the increasing and fundamental difficulties of service delivery and organisational performance faced by NTRBs. Supporters of NTRBs have countered such criticism with arguments about the short life span of NTRBs and how established land councils, such as the Northern and Central Land Councils, evolved and developed to their present stature and effectiveness over a 20-year period.

No doubt consideration should also be given to the political climate in which NTRBs have operated since 1993; where arguments have been made by both Commonwealth and State Governments and vocal lobby groups of the inherent 'uncertainty' in the NTA and the 'unworkability' of the Wik High Court decision for coexistence of property rights on some pastoral leases. Further, the introduction of new legislation reopens the window of opportunity for significant and strategic reform of NTRBs. In addition, the Native Title Program is the third largest ATSIC program (after the Community Development Employment Projects scheme and Community Housing Infrastructure Program). In the 1998/99 global ATSIC budget allocations, the Native Title Program managed to attracted $47.155 million of the available funding dollars).

NTRBs face escalating performance pressures heightened by a number of factors, including the limitations of annual funding cycles. Across the country many NTRBs are responding to their current workloads with only varying degrees of appropriateness, *in spite* of ATSIC's supportive efforts to provide standardised models for operational procedures, a formula for workload funding, and appropriate employment conditions for permanent staff and consultants (see the list of remedial and supportive measures outlined in ATSIC 1996–97: 135).

However, in 1995 when the review was undertaken, the review process created a policy expectation that timely and comprehensive recommendations could result in proactive strategies for NTRBs and positive outcomes for their clients. Indeed, escalating enthusiasm for lodging claims and securing the right to negotiate process highlighted the need for strategic approaches to workloads and case management at both the micro- and macro-level, and comprehensive funding allocations through ATSIC program delivery.

Consequently, newly-determined NTRBs were reviewed only a year after the 1993 Act's introduction. This timing made it possible for any necessary recommendations to be made, providing the first comprehensive organisational and procedural format for NTRB development. Indeed, Review recommendations concentrated not only on issues of immediate concern, but were careful to foreshadow anticipated long-term procedural and performance challenges.

Australia-wide consultations were conducted. This enabled recommendations to be responsive to on-the-ground organisational realities; for example, to accommodate differential resourcing, organisational idiosyncrasies, and the varyingly successful records in meeting statutory obligations. Recommendations were comprehensive; for example, they covered the nature of the statutory role and responsibilities of the NTRB, operational jurisdictions, workloads and resource needs, funding, management and administration, as well as mechanisms for future processual and performance reviews (see ATSIC 1995: v–vi).

The Review Committee hoped that:

> our report provides a comprehensive framework to ensure the appropriate development and resourcing of Native Title Representative Bodies over the next five years. We recommend that implementation of the report's recommendations begins immediately owing to clear evidence that native title parties urgently require enhanced support, particularly in regional contexts. This provides ATSIC with a unique opportunity to proactively mentor new Native Title Representative Bodies and offer them enhanced support (ATSIC 1995: iv).

Aboriginal organisations which had immediately gained ministerial determination were in some cases, experienced corporate players (for example the Northern Land Council; Central Land Council; NSWALC and the Cape York Land Council); others were inexperienced players and were often erratic in their response to performance standards. On all counts, NTRBs were new organisational 'beasts', totally unlike the land councils, and were expected to provide instrumental service delivery (see Smith 1995).

However, the Committee were mindful of the role model successful peak bodies such as land councils offered, and this perception was reflected in many of their proposals. In addition, ATSIC was able to immediately implement some of the Review's recommendations such as the recommendation to contain funding within NTRBs instead of making direct allocations to claimant groups; and the recommendation to ensure that all program funds within ATSIC were quarantined as national program funds and were therefore not available to ATSIC regional councils for discretionary distribution.

The Review Committee also distinguished between two Aboriginal organisational models. Model One was represented by the larger, established representative organisations with previous experience of indigenous land-based interests under other legislative regimes (such as the *Aboriginal Land Rights (Northern Territory) Act 1976* and the *New South Wales Aboriginal Land Rights Act 1983*). Model Two organisations were usually extensions of small community organisations or non-statutory 'land councils' which were now called upon to play a new, and often more regionally representative, role.

The Review sought a balance between attention to detail and articulation with the broad policy picture in which these details had an instrumental role for organisational efficiency. This approach was driven by a number of imperatives; not least that NTRBs were to have a pivotal role in the operation of the Act (ATSIC

1995: vii) with representational responsibilities to native title claimant parties. Specific organisational imperatives were also mentioned, although the Review Committee identified four key principles for an effective agency role. These principles were:

i. the capacity of an NTRB to offer claimants access to high calibre representation;

ii. financial resourcing through economies of scale;

iii. opportunities for strategic leverage with industry and government stakeholders in mediation and through the RTN processes; and

iv. options for strategic outcomes outside of litigation through agreement processes encompassed by the Act and by coordination of land interests/needs with the Indigenous Land Corporation (ATSIC 1995: ix).

The Review was formally presented to the ATSIC Board in August 1995. The Review Committee highlighted their recognition of a window of opportunity for the:

> growing evolution and resolution of native title issues, the [need for the] roles and responsibilities of Native Title Representative Bodies ... to be more clearly defined, initially in program guidelines and regulations ... and economies of scale and scope ... [to produce] cost effective implementation of native title policy objectives (ATSIC 1995: iii).

The set of identified common principles were coupled with a recommendation for eventual mandatory powers for all NTRBs. A detailed framework of policies and procedures was proposed for coordination and prioritisation of claims; claimant education in the native title process; broadly representative structures to encompass native title interests within jurisdictions; organisational policies and procedures to ensure transparency in decision-making and prioritisation of claims; accountability to constituents (see ATSIC 1995: xi). These recommendations were expected to have a five-year shelf life (ATSIC 1995: iv). Between 1995 and 1998 some recommendations have been implemented as mentioned above (see also ATSIC 1997: 135; including subsequent policy decisions for case-load funding and the expansion of the organisational models to a third category as part of tighter performance monitoring).

But in my view, the value of the Review has been under-estimated if not overlooked; at least by NTRBs. No practical blueprints existed at the time for establishing and operating an NTRB; nor were there practical guidelines for the routine conduct of NTRB responsibilities in an increasingly competitive and pressurised field of interest groups. In such a policy and political climate, the importance and value of the Review should have been self-evident to all levels of ATSIC and NTRBs, not just to the program administrators.

Do changes in processes bring changes in performance?

Review members predicted the exponential increase in workloads for NTRBs just as they also recognised that claim work would be geographically specific and industry-related (see Lewington, Roberts and Brownley 1997: 203–15). The Review recommendations have been extended by recent model policies and procedures for dealing with applications and other related issues (see Kauffman and Wilson 1998) and efforts to introduce uniform national service standards. Specific strategies such as targeted organisational reviews, and specialist in-service programs have also been initiated to establish and maintain levels of NTRB professionalism and enhance performance reporting (see ATSIC 1997: 135–6).

However, substantial performance problems remain at the operational and representative levels for a majority of NTRBs. Why should this be so? Explanations vary. Some NTRBs face geographical disadvantage. Small organisations are frequently captured by intense localism and partisan politics. Increasingly the need to undertake professional work by NTRBs is outstripped by the lack of available experienced staff. We also know that competent professionals can be limited in their capacity to perform tasks by a dysfunctional organisational environment.

Nevertheless, in my view, many of these issues are not core matters, since, ultimately, the fundamental dynamics of all indigenous organisations flow from the internal indigenous political realm; and, arguably, this is so whether we are focusing on a specific NTRB governing committee or the ATSIC Board. Internal political dynamics certainly determine much decision-making and subsequent deployment of NTRB resources regionally, as they are equally present in policy decisions about NTRB relationships with all levels of government, including relationships with external bodies like the National Native Title Tribunal (NNTT).

Externally, NTRBs are now confronting changes in the political complexion of governments at Federal and State levels which will significantly impacted on them. Recent Federal Government intervention and legislative amendments have impacted on the NTA; heritage protection changes, changes to ATSIC's global funding allocations, and more recently, increased public scrutiny of ATSIC's accountability and funding decisions. These shifts both represent and foreshadow changes in the policy status and legislative positions of indigenous rights in the contemporary Australian nation state.

ATSIC sits uncomfortably between ministerial intervention in their programs and structures, and the ATSIC bureaucracy's own imperative to intervene when necessary in the indigenous organisations they support. Self-determination might well be the policy framework in which ATSIC operates, but ATSIC constantly faces questions about public financial accountability, performance reporting and compliance issues associated with their program funding role to a range of community organisations.

ATSIC's performance, in terms of public accountability, has become a popular political issue for many of its critics; and cases no doubt exist where questions of compliance were necessary. However, the future policy environment is unclear in terms of how ATSIC can simultaneously deal with the external political pressures from governments for repeated performance and financial auditing, and the internal question of bench marking best practice in NTRB performance and management, standardising administrative procedures and requiring responsible self-determination. One of the impediments to achieving such a conjunction is a political ideal of the present Federal Coalition Government for diversity of choice and competition policy in service delivery. As a consequence, the view that claimant parties should be serviced by a single organisation (such an NTRB or statutory land council) with a monopoly on a particular service provision may not be sustainable as a long-term position, even if, practically speaking, it is the most cost-effective and sensible service delivery option. One of the ironies of such a position is that ATSIC may be forced to support claimant activities outside, or in opposition to, NTRB representation.

Indigenous corporate cultures: the challenge of change

If the Review Committee had a clear vision of the statutory relationship between NTRBs and the NTA, indigenous expectations were often entirely different. In fact, the idea of representation has emerged as a major site of interpretative difference amongst indigenous parties as well as commentators. The Review Committee recognised that:

> There is some uncertainty about exactly what representative refers to and how it is assessed for the process of ministerial determination (ATSIC 1995: 16).

Historically, Aboriginal organisations are fuelled by the dynamics of indigenous kinship and community politics. But for NTRBs this organic energy is potentially complicated by the statutory requirement that such bodies be representative according to other criteria.

What exactly does representative mean for the organisations' constituents; and do these parallel understandings held by ATSIC as the NTRB's funding source? The Review Committee strongly argued that:

> NTRBs are, first and foremost, organisational advocates for their native title constituents. The Review Committee suggests that minimally they must be able to demonstrate that they can act for and serve the interests of a sufficiently broad cross-section of their indigenous constituency. The main issue then remaining is what organisational procedures and structures facilitate adequate representation and accountability to indigenous constituents who wish to utilise their services (ATSIC 1995: 16).

Clear and indisputable interpretations rarely occur on the ground. Given the history of Aboriginal community organisations, differences of interpretation are understandable. Many Aboriginal organisations developed in hostile contexts which encouraged them, as marginalised groups, to pursue oppositional

strategies. For example, many indigenous health and housing services emerged because mainstream services failed to adequately address indigenous needs and, historically, many State governments enacted legislation to limit indigenous people's access to community health, education, employment and legal services. After 1975 and the Whitlam Labor Government (1972–75) this changed to some extent. For the first time, funds were allocated to establish sustainable indigenous community organisations, while self-determination enabled many Aboriginal people to articulate and organise services on their own terms.

Unfortunately, more than 20 years later, many initial teething problems of organisational and representative structures remain. The release of the ICAC's (ICAC 1998) *Report on Investigations into Aboriginal Land Councils in New South Wales (Corruption Prevention and Research Summary)*, and the two volume *Review of the Aboriginal Councils and Associations Act 1976* (ACA) (see Fingleton 1996) demonstrate the prevalence of governance problems in cross-cultural contexts (see also Martin and Finlayson 1996).

Sourcing the causal factors of governance problems has been variously tracked to technical issues, such a need for more appropriate legislative models for incorporation under Corporations Law regimes (see Mantziaris 1997). Others have argued for particular forms of regulatory mechanisms on funding and the possibility of developing comprehensive workload funding models (Kauffman and Wilson 1998); while still others argue a comprehensive need for education and training in human and financial resource management and accountable forms of decision-making (see ICAC 1998). The urgency with which solutions to these issues are needed has not been lessened by the expansion and increasing complexity of the native title claims processes and associated legislation.

At the local level, the practice of representative governance has also been assailed in the claims process. For instance, in situations where strategic prioritisation of claims is critical, or where policy decisions and funding allocations must necessarily distinguish between applicants, many organisations have encountered resistance to operating through a transparent and accountable process which implies a broad-based consideration of consequential factors. In local and regional contexts Aboriginal constituents anticipate that partisan, rather than objective, decision-making inevitably drives procedure; or as Ridgeway suggested, power and control are a function of the numbers game (*The Australian*, 29 April 1998).

What I am arguing is that the under-performance by NTRBs is part of a spectrum of organisational challenges which are characteristic of all incorporated Aboriginal organisations, including some organisations established in the mid-1970s for whom the challenges continue. The conundrum for ATSIC is the necessity to walk a fine line between necessary intervention and commitment to self-determination; a tension which is repeated between claimant groups and their NTRB, especially when the process is characterised as necessarily claimant-driven.

In my view, these continuities arise because it is the culture of indigenous community politics, rather than models of managerialism or technical knowledge, which determine indigenous organisational action and behaviour. These dynamics are an implicit feature of the nature of indigenous corporate groupings and have been variously described in the native title literature by Keen (1994), Peterson (1994), Stead (1994), Martin (1995), Gladstone (1996), Levitus (1996), Rumsey (1996) and Sutton (1995; 1996) to name a few. Related issues of authority, representation and individual and group entitlement, are evident in the literature on resource development and indigenous people (see Dillon 1991; Levitus 1991; Trigger 1998).

Few critics of organisational inefficiency appreciate the force of these factors or accommodate them in their resolutions for enhancing performance and implementing change. Instead, complaints of corruption or under-performance are considered best met with targeted training and educational initiatives. ICAC, for example, argues that improved performance and administrative transparency amongst local and regional New South Wales Aboriginal land councils is linked to management and training. Better and more intensive training is needed because these are multi-functional organisations which control substantial amounts of money in the absence of any support and without fundamental knowledge of the required administrative and ethical processes (ICAC 1998: 6).

More recently, Ivanitz (1998) argued that the mechanisms of performance monitoring for indigenous organisations were too culturally foreign to be appropriate. She developed a case for incorporation of culturally inclusive forms of accountability in acquittal procedures and administrative reckoning.

> At the local level, Aboriginal people are accountable to each other in terms of distribution of goods and services and kin-based obligations. It may be considered more important for the leader of a community to provide, for example, a motor for someone's boat than it is to ensure that mainstream auditing requirements are met. The boat motor enables the individual to feed his family or earn a living. The money to purchase the goods may have come from an existing health program budget. The rationale for the purchase is that if an individual is earning a living and is a productive member of a community, there will be less use of the medical system and no use of government transfer payments in the form of social assistance. The logic of the decision for the purchase of the boat is sound from an Aboriginal perspective: meaningful employment resulting in a self-sufficient family and better health. The government acquittal process may, however, see this as an inappropriate capital expenditure. Therefore, the community is in breach of its grant (Ivanitz 1998: 36).

I take an opposing view to Ivanitz. In my experience, community organisational accountability is very firmly (even too firmly), tailored to Aboriginal cultural conceptions of kin-based obligations and the necessary flow of goods and services. Indeed, the current difficulties with accountability and transparency are likely to be an inversion of Ivanitz's proposition; that is, organisational accountability is wholly inclusive of Aboriginal views and mechanisms and may operate with only tangential relevance to mainstream acquittal processes. This makes it a matter of educating Aboriginal organisations to incorporate

mainstream acquittal mechanisms, rather than excluding them as irrelevant. It also means that any emphasis for change must ensure the inclusion of mainstream acquittal processes and not simply appear as a change in form. Part of the difficulty of incorporating mainstream accountability in indigenous systems is the conceptual and cultural shift involved, from exclusive to inclusive, from local to the regional, from the personal and familial to the wider general community.

I do not deny the importance of education and training for functional competency and a shift to more inclusive representative positions. However, if specific internal dynamics subvert such cultural change, it may not be realistic for ATSIC to expect to achieve a turn-around in NTRB practice and performance through its policy and program delivery alone.

> The realisation of our vision depends on the empowerment of Aboriginal and Torres Strait Islander peoples and the achievement of real self determination (ATSIC 1997: vii).

The policy vision in which organisational management operates is self-determination. This often curtails ATSIC's capacity to guarantee NTRB competency and effective management.

Existing strategies and directions for enhanced NTRB performance are outlined in ATSIC's most recent annual report (see ATSIC 1997: 135). Yet best practice models may be insufficient *on their own* to ensure organisational change and efficiency, especially if there is no compulsion to implement best practice and in the absence of mandatory powers for NTRBs; a situation which prevailed under the NTA. However, the recent promulgation of NTAA will necessitate changes which extend the statutory functions of the NTRBs, while requiring them to re-apply for accreditation when best practice issues with take on particular significance.

Parts 1 and 2 of Schedule 3 of the NTAA outline broad structural changes and additional functions expected of the NTRBs, and a 12 month transitional period during which redefinition and re-gazettal of the boundaries of NTRB areas will occur alongside NTRB re-accreditation. Simultaneously, ATSIC is implementing significant changes to performance and acquittal requirements for all those who deal directly and indirectly with ATSIC. Their introduction of a service charter agreement has initially been directed to NTRBs, but is part of a wider strategy to establish national benchmarks for indigenous management and administration standards and consolidation of performance monitoring.

Service charters have a number of objectives. One is to set benchmarks for best practice between the contracted parties. Another objective is to articulate consistent standards for administration and management. In general terms, service charters are another strategy to ensure contractual parties appreciate that their funding and performance involves responsibilities and obligations and that these may be used as performance criteria. In this sense, a service charter provides a policy framework in which actions can be measured against identified criteria with the promise of follow up action where appropriate. Potentially, service

charters have the capacity to broadly encapsulate a new administrative and quality service for the next generation of NTRBs; especially since some would argue that the context and premises in which the 1995 ATSIC Review was carried out are no longer relevant.

Native title matters has certainly been a dynamic political and policy situation over the past few years; however, change is now overtaking another sphere of indigenous affairs—service delivery. It is arguable whether claimant-driven positions are, or will be, sustainable in the increasingly bureaucratic and legalistic native title arena. Moreover, with the increasing legislative opportunities for many State governments to embark on their own native title legislation and tribunal processes, indigenous rights will not be quarantined from further public and political scrutiny.

Claimant-driven processes in the native title arena have often been presented as arguments for self-determination and social justice; although such processes have also masked complex political questions of which sector of indigenous interests actually drives NTRB policy and action. At the extremes are NTRBs without any systematic or strategic direction for progressing claims research. Nevertheless, often they continue to operate through ideologically-based management strategies which, when combined with largely oppositional negotiation and mediation positions, effectively diminish the capacity to realise sustainable and effective native title outcomes. Is structural and administrative change possible in organisations like these?

The strategic role of NTRBs

A critical future challenge for NTRBs is reinventing themselves (Stead 1995), especially with mandatory re-registration now compulsory. There is an increasing need to transform themselves from the reactive, oppositional creatures of a previous political climate, to strategic, proactive organisations capable of recognising and seizing the political moment in a manner that ensures beneficial outcomes for their clients. The successful NTRBs of the future will need to be as skilled in negotiation and tactical compromise as they have, in the past, been keen to oppose it.

However, for this transformation to occur it *must* be centrally driven and sustained by ATSIC and the ATSIC Board since there is often denial of reasons to reform at the local level, despite ATSIC linking outcome provisions with funding allocations.

A difficulty common in many of the smaller NTRBs and already alluded to with respect to professional competency, are tensions between the administration and the governing body. Until the introduction of service charters, ATSIC could offer little in the way of effective strategies to NTRB staff who found their capacity to perform efficiently limited by inappropriate intervention from the NTRB's governing committee; or where an NTRB's constituency consistently complains of

NTRB failure to equitably represent their interests; or where the impact of repeated indigenous challenges to elected NTRB officials are frequent and entail upheavals in staff employment conditions and security.

ATSIC already has the monitoring capacity to become informed of such difficulties; but increasing bureaucratic pressure to assume wider administrative reporting procedures is not an effective answer. These situations require the influence and impact of a tight policy framework coupled with the political will to produce sustainable change since, by and large, NTRBs quite simply will not be able to produce such changes unassisted.

Until the Native Title Amendment Bill was passed, the introduction of threshold mechanisms was already impacting on the claims process to stimulate change. In some States, notably Queensland and Western Australia, State governments had developed criteria incumbent on applicants before mediation sessions between the parties was possible.

The proposed introduction of the NNTT's differential allocation of resources policy (DARP) was a further effort to promote systemic change. Prior to the introduction of the NTAA, DARP was to be progressively implemented in those States with urgent needs for streamlining the claim process (for example, Queensland and Western Australia).

DARP was an attractive option from the Tribunal's perspective. First, native title claims currently before the Tribunal are exceeding the capacity of Tribunal resources given the intensive labour resources required to mediate and case manage them. For instance, there are more than 700 registered native title claims; more than 7,000 future act notifications and only 19 members. At the individual level, Radio National's Background Briefing program (14 June 1998) on native title reported that one full-time NNTT member (Rick Farley) was mediating 90 claims.

Second, the number of claims and their increase makes it impossible for equitable management. Third, many NTRBs are not functioning efficiently and in some States significant proportions of claimants are presenting applications independently of an NTRB. Fourth, the Tribunal seeks to match allocation of resources with the high probability of a successful outcome. Finally, a policy of differential allocation of resources means strategic decisions are made for an appropriate use of resources. DARP would require NTRBs to act strategically in decision-making over claims, in prioritising research, and in reaching performance objectives.

All native title applications would be streamed according to DARP's identified criteria and then Tribunal resources (in personnel and services) would be differentially allocated to applications. Criteria for streaming would encompass a range of factors such as the extent of intra-indigenous conflict; the ability of claimants to show evidence of connection to country; the ability to form a prescribed body corporate; the willingness of the State to enter into mediation, and so forth. Applications would be variously streamed as claims with a high

priority for mediation; high priority referral (to the Federal Court for determination); or further preparation required (to proceed to mediation). These allocations would also be periodically reviewed by Tribunal members.

Not all NTRBs were enthusiastic about prioritisation. Some argued that such a process inhibits decision-making in the context of self-determination. As one NTRB complained:

> we have a decision-making structure which may make it difficult for us to fully participate in any attempt to develop agreed policies and procedures for prioritising the allocation of resources to claims ... We have 5 reference groups from which we take instructions, and we try not to set or dictate any priorities. As far as possible we work to ensure reference groups make decisions for the Land Council on how best to assert and pursue native title. The Land Council refers native title matters to reference groups, as they arise, and we aim, to the best of our ability, to provide a professional service equally available to each reference group, offering legal expertise, research experience and other services on request (unpublished document in author's possession 1998).

Altman and Smith (1994: 27) have pointed out in relation to the monitoring of royalty associations, that self-determination often results in a 'hands-off' practice where hands-on support is actually required. Ironically, DARP may provide external support for ATSIC's introduction of national benchmarks and service charters. But in the era of a new native title act, many State governments will prefer to use state-based legislation and jurisdictions to deal with claim issues and processes and NNTT policies like DARP may have little effective relevance.

Social justice and self-determination: appropriate policy contexts for native title?

In settled Australia NTRBs are increasingly dealing with claims involving removed (or historical) people and those of the stolen generations. An emergent tension relating to these claims is the position different groups have with respect to differential claims to, and knowledge of, country.

Such issues first gained prominence in Queensland with the need to accommodate Aboriginal people in the diaspora—the so-called traditional and historical peoples (Rigsby 1995: 25 ff; Finlayson 1997; Martin 1997; also see numerous Northern Territory land claim books) and have re-emerged as another means for distinguishing between indigenous insiders and outsiders (value-laden terms replete with Aboriginal politicking).

The NTAA has introduced requirements for the process of claim registration associated with pathways to additional entitlements such as the right to negotiate (now no longer an automatic entitlement on lodgement). All currently lodged claims and all those to be lodged in the future will be subject to the new registration test on two sets of conditions (see s.190B conditions of merit; and

s.190C conditions of procedural and other matters). There are also regulations about certification by the NTRB of the claim and the authority of the applicant to lodge the claim (see s.61 and s.62). Authorisation and certification have specific meanings in the Act.

Anthropologists and other claim researchers are likely to be called upon for the certification process. In a process which foreshadows the new Act, Keen (1998) argued that the contemporary role of NTRB researchers parallels in fact that of anthropologist Norman Tindale who developed extensive data banks of indigenous genealogical information as an extension of government policy. Keen's own research has been open to different interpretations by claimants.

> Several Gippsland Koories have reacted to the research in preparation of native title claims, including genealogical research, with questions such as, 'why do we have to prove who we are all the time?'. Others see the representative body as an arm of government, and hence its work as oppressive. In this view the researcher is a State functionary, busy encouraging people into divulging sometimes intimate details of their families, as an aspect of the administration of legislation that is oppressive. In others' eyes the representative body is a Koori organisation that represents their interests, and the research is a legitimate tool for advancing their own interests and autonomy (Keen 1998).

Under both native title acts, genealogical information plays a crucial role in evidence of connections to country. Applicants must demonstrate not only connection to the early indigenous regional population, but also traditions of continuity (see Keen 1998; Finlayson and Curthoys 1997). However, a recent Federal Court decision on the Aboriginal identity of certain individuals in Tasmania raises questions which many NTRBs may need to prepare for.

Justice Ron Merkel found that the onus was on the Aboriginal community to establish who was Aboriginal (*The Hobart Mercury*, 21 April 1998). Also, because of the sociological complexities involved, Merkel found it impossible to have simply one definition of Aboriginality and impossible that the question of identity should be made by 'an Aboriginal body' (such as a land council or community organisation).

Yet such issues of authority and authenticity are likely to surface in right to negotiate arbitrations and claims, particularly where the legal onus is on claimants to prove their rights and interests and the effects of industry action on them. Consequently, special conditions in arbitration will only be granted if evidence of the need for it is provided.

However, I suggest that NTRBs will also be asked to make judgments which involve the rights of traditional and historical people when arguing the priority of some claims over others and in relation to certification and authorisation procedures required in s.190C of the NTAA. Although similar issues have previously been tackled in Northern Territory claims, native title operates from a different legislative basis and may be more restricted in its potential for inclusion and resolution. Hard decisions about core issues like identity make the challenge of arbitrating between constituents and being representative formidable, yet

absolutely critical. In the event of requirements for the new NTRBs to form obligatory judgments it is not difficult to see the tensions which will arise in relation to meeting statutory requirements, while also seeking to implement the principles of self-determination and social justice.

Conclusions

This paper has raised some difficult and confronting questions for NTRBs and ATSIC policy makers generally. The view that better administrative processes and mangerialism necessarily improve NTRB performance is questioned because the corporate organisational history of Aboriginal bodies shows the continuity of long-term, systemic problems of accountability, transparency and governance. After 20 years of operation, some organisation and service providers continue to flounder because of repeated failure to address such issues. Consequently, any review of organisational history demands answers as to why organisational change and enhanced performance is not sustainable when training in management and administration is provided and support to achieve performance outcomes is forthcoming.

A central conclusion of this paper is that, as a policy, self-determination has encouraged self-management through a hands-off low level of intervention and that this approach cannot resolve systemic problems. This view would seem to be true whether we are focusing on the micro- or macro-level of Aboriginal corporations. Self-determination, often expressed in the NTRB context as a claimant-led process, also makes political intervention from the national level problematic.

But the crux of my argument is that the real dynamic of organisational behaviour owes everything to local and regional indigenous political and cultural imperatives; a dynamic often evident at the macro-level. If we accept this analysis, then the real dynamic for change can only come through the exercise of political will at the national policy level. The governing committees of regional NTRBs have little incentive to change, especially when, in their view, the main game is the internal political strategising for control and management of resources and a local monopoly on decision-making. Accountability to internal indigenous objectives will always be paramount because it is the most meaningful one. This point largely explains the source of tensions between administrative staff and governing bodies; they work for different objectives.

Professionalised workplaces and appropriate service delivery by NTRB staff are limited when NTRB governing committees argue that they have every right, in the context of self-management, to intervene in daily administrative decision-making and practice. In my view, ATSIC staff more generally face similar limitations in their workplace with regard to monitoring indigenous performance outcomes.

In both cases, ultimately, these tensions may only be resolved by breaking the nexus between the elected officers and professional personnel. If this can be achieved, the impact of administrative and managerial reform can enhance the potential to bring about effective and sustainable outcomes in Aboriginal service delivery.

References

Aboriginal and Torres Strait Islander Commission (ATSIC) 1995. *Review of Native Title Representative Bodies 1995*, ATSIC, Canberra.

Aboriginal and Torres Strait Islander Commission (ATSIC) 1997. *Annual Report 1996–97*, ATSIC, Canberra.

Altman, J.C. and Smith, D.E. 1994. 'The economic impact of mining moneys: the Narbarlek case, Western Arnhem Land', *Discussion Paper No. 63*, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra.

Dillon, M.C. 1991. 'Interpreting Argyle: Aborigines and diamond mining in northwest Australia', in J. Connell and R. Howitt (eds) *Mining and Indigenous People in Australasia*, Sydney University Press, Sydney.

Dillon, M.C. 1992. 'Program evaluation and monitoring in Aboriginal and Torres Strait Islander affairs: a strategic overview', in C. O'Faircheallaigh and B. Ryan (eds) *Program Evaluation and Performance Monitoring: An Australian Perspective*, Macmillan, Melbourne.

Dillon, M.C. 1996. 'Institutional structures in Indigenous affairs: the future of ATSIC', in P. Sullivan (ed.) *Shooting the Banker: Essays on ATSIC and Self-determination*, North Australia Research Unit, The Australian National University, Darwin.

Fingleton, J. 1996. *The Final Report—Review of the Aboriginal Council and Associations Act 1976* (Cwth), Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Finlayson, J.D. 1997. 'Aboriginal tradition and Native Title Representative Bodies', in D.E. Smith and J.D. Finlayson (eds) *Fighting Over Country: Anthropological Perspectives*, Research Monograph No. 12, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra.

Finlayson, J. and Curthoys, A. 1997. 'The proof of continuity of native title' and 'An historian's perspective', *Issues Paper No. 18, Land Rights, Laws: Issues of Native Title*, Native Titles Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Finlayson, J.D. and Smith, D.E. (Editors) 1995. *Native Title: Emerging Issues for Research, Policy and Practice*, Research Monograph No. 10, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra.

Gladstone, L. 1996. 'Unnecessary disputes? Atomism, collectivism and land claims in the Northern Territory', in J.D. Finlayson and A. Jackson-Nakano (eds) *Heritage and Native Title: Anthropological and Legal Perspectives*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Independent Commission Against Corruption (ICAC) 1998. *Report on Investigation into Aboriginal Land Councils in New South Wales. Corruption Prevention and Research Summary*, ICAC, Sydney.

Ivanitz, M. 1998. 'Straddling two worlds: ATSIC and the management of Indigenous policy', *Research Paper No. 6*, Centre for Australian Public Sector Management, Griffith University, Brisbane.

Kauffman, P. and Wilson, M. 1998. *Appropriate Reform: Project Based Funding for Native Title Representative Bodies*, Aboriginal and Torres Strait Islander Commission, Canberra.

Keen, I. 1994. 'Conflict in Aboriginal land tenure', in J. Fingleton, M. Edmunds and P. Rundle (eds) *Proof and Management of Native Title*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Keen, I. 1998. 'Norman Tindale and me: anthropology, genealogy, authenticity', in Research Monograph No. 13, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra (in press).

Levitus, R. 1991. 'The boundaries of the Gagudju Association membership: anthropology, law and public policy', in J. Connell and R. Howitt (eds) *Mining and Indigenous People in Australasia*, Sydney University Press, Sydney.

Levitus, R. 1996. 'The Resource Assessment Commission and Coronation Hill 1990–91', in J. Finlayson and A. Jackson-Nakano (eds) *Heritage and Native Title: Anthropological and Legal Perspectives*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Lewington, J., Roberts, S. and Brownley, Y. 1997. 'Multiplicity and complexity: the Goldfields Land Council's native title experience', in D.E. Smith and J.D. Finlayson (eds) *Fighting Over Country: Anthropological Perspectives*, Research Monograph No. 12, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra.

Mantziaris, C. 1997. 'Beyond the Aboriginal Councils and Associations Act? Part 1', *Indigenous Law Bulletin*, 4 (5): 10–14.

Martin, D. 1995. 'A claimant-led recovery? Aboriginal group dynamics and native title claims', in J. Fingleton and J.D. Finlayson (eds) *Anthropology in the Native Title Era*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Martin, D. 1997. 'The incorporation of 'traditional' and 'historical' interests in Native Title Representative Bodies', in D.E. Smith and J.D. Finlayson (eds) *Fighting Over Country: Anthropological Perspectives*, Research Monograph No. 12, Centre for Aboriginal Economic and Policy Research, The Australian National University, Canberra.

Martin, D. and Finlayson, J.D. 1996. 'Linking accountability and self-determination in Aboriginal organisations', *CAEPR Discussion Paper No. 116*, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra.

Merlan, F. 1994. 'Entitlement and need: concepts underlying the Land Rights and Native Title Acts', in M. Edmunds (ed.) *Claims to Knowledge, Claims to Country: Native Title, Native Title claims and the Role of the Anthropologist*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Peterson, N. 1994. 'How to recognise the claimant: individuals, representatives and groups', in J. Fingleton, M. Edmunds and P. Rundle (eds) *Proof and Management of Native Title*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Rigsby, B. 1995. 'Tribes, diaspora people and the vitality of law and custom: some comments', in J. Fingleton and J.D. Finlayson (eds) *Anthropology in the Native Title Era*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Rowse, T. 1992. *Remote Possibilities: The Aboriginal Domain and the Administrative Imagination*, North Australia Research Unit, The Australian National University, Darwin.

Rumsey, A. 1996. 'Aspects of native title and social identity in the Kimberleys and beyond', in J.D. Finlayson and A. Jackson-Nakano (eds) *Heritage and Native Title: Anthropological and Legal Perspectives*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Sanders, W. 1993a. 'Rethinking the fundamentals of social policy towards indigenous Australians: block grants, mainstreaming and the multiplicity of agencies and programs', *CAEPR Discussion Paper No. 46*, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra.

Sanders, W. 1993b. 'Reconciling public accountability and Aboriginal self-determination/self-management: is ATSIC succeeding?', *CAEPR Discussion Paper No. 51*, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra.

Smith, D.E. 1984. '"That register business": the role of the land councils in determining traditional Aboriginal ownership', in L.R. Hiatt (ed.) *Aboriginal Landowners*, Oceania Monograph No. 27, University of Sydney, Sydney.

Smith, D.E. 1995. 'Representative politics and the new wave of native title organisations', in *Native Title: Emerging Issues for Research, Policy and Practice*, Research Monograph No. 10, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra.

Stead, J. 1994. 'Who to invest title in? The Northern Territory experience', in J. Fingleton, M. Edmunds and P. Rundle (eds) *Proof and Management of Native Title*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Stead, J. 1995. 'Lessons from Northern Territory land claims: a land council perspective', in *Native Title: Emerging Issues for Research, Policy and Practice*, Research Monograph No. 10, Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra.

Sullivan, P. (Editor) 1996. *Shooting the Banker: Essays on ATSIC and Self-determination*, North Australia Research Unit, The Australian National University, Darwin.

Sutton, P. 1995. 'Atomism versus collectivism: the problem of group definition in native title cases', in J. Fingleton and J.D. Finlayson (eds) *Anthropology in the Native Title Era*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Sutton, P. 1996. 'The robustness of Aboriginal land tenure systems: underlying and proximate customary titles', *Oceania*, 67 (1): 7–30.

Trigger, D. 1998. 'Citizenship and indigenous responses to mining in the Gulf Country', in N. Peterson and W. Sanders (eds) *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*, Cambridge University Press, Cambridge.

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