Straddling Two Worlds: ATSIC and the Management of Indigenous Policy

Michele Ivanitz

Aboriginal Politics and Public Sector Management

Research Paper No. 6 July 1998
Centre for Australian Public Sector Management

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Professor Ciaran O'Faircheallaigh
Faculty of Commerce and Management Griffith University
NATHAN Q. 4111

Phone: (07) 3875 7209 Fax: (07) 3875 7737
E-mail: Ciaran.Ofaircheallaigh@griffith.edu.au
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The Author

Dr Michele Ivanitz is an ARC Research Fellow in the Centre for Australian Public Sector Management and is a lecturer in the School of Politics and Public Policy at Griffith University. Her research interests are in Aboriginal organisational structures, accountability mechanisms, devolution of public services from government to Aboriginal jurisdiction, Aboriginal politics, and research methods. She is the author of numerous reports on native title, regional agreements and service devolution. Dr Ivanitz acted as a consultant and advisor to a number of Aboriginal organisations in Canada for more than a decade and now acts as an advisor to Aboriginal groups in Australia and Canada, including the Ngrangal-Wal Land Council, the Foundation for Aboriginal and Islander Research Action, the National Native Title Tribunal, the Treaty Eight Tribal Council, and the Gwich' in Tribal Council.
Abstract

The Aboriginal and Torres Strait Islander Commission (ATSIC) is the principal funding and policy-making body in Commonwealth administration of Aboriginal affairs. ATSIC is, however, the subject of much debate as its role comes under intense scrutiny by the Commonwealth government, ATSIC itself, and Aboriginal communities. The debate includes the effectiveness and efficiency of the administrative and representative arms of ATSIC, decision-making processes at political and bureaucratic levels, the judicious expenditure of public funds, the apparent lack of clear policy directives, and the relationship between ATSIC and the Regional Councils. These discussions are not confined to the arenas of Aboriginal affairs. They are a significant part of broader community debates.

This paper critically examines these debates and the role of ATSIC in the management of Indigenous Policy.
Introduction

To date, federal and state governments have initiated a range of policies, programs and services intended to improve the living conditions and socio-economic standards of Aboriginal Australians. While some policies have had limited success, most appear to be ineffective as Aboriginal Australians continue to suffer severe disadvantage when compared with the general population.

This situation raises issues which have received much attention within mainstream public sector analysis. They include the design of institutional structures, decision-making processes, policy-making and implementation, evaluation, resource allocation and accountability, the impact of politics at local, regional and national levels, and the development of appropriate analytical frameworks and methodologies. However, there is currently no coherent framework for looking at these issues from an Aboriginal perspective. The Centre for Australian Public Sector Management is undertaking a three year Australian Research Council project to develop such a specifically Aboriginal dimension to research on public sector management in Australia (see O'Faircheallaigh 1996).

Part of the ARC research involves the analysis of selected aspects of the Aboriginal and Torres Strait Islander Commission (ATSIC). ATSIC is the principal funding and policy-making body in Commonwealth administration of Aboriginal affairs; it falls under the Commonwealth portfolio of Aboriginal and Torres Strait Islander Affairs, which in turn falls within the portfolio of Prime Minister and Cabinet. Given the centrality of ATSIC, it represents an important focus in the development of an approach to the management of public policies and programs which is tailored to the specific needs, aspirations and circumstances of Aboriginal peoples.

ATSIC is the subject of much debate as the role of ATSIC is coming under intense scrutiny by the Commonwealth government, ATSIC itself, and Aboriginal communities. The debate includes the effectiveness and efficiency of the administrative and representative arms of ATSIC; decision-making processes at political and bureaucratic levels, the judicious expenditure of public funds, the apparent lack of clear policy directives, and the relationship between ATSIC and the Regional Councils.

These discussions are not confined to the arenas of Aboriginal affairs. They are a significant part of broader community debates. These debates were brought to the surface by the arrival of the conservative Liberal/National Coalition government and by Ms. Pauline Hanson, Independent Member of the House of Representatives. Hanson's maiden speech of 10 September, 1996 opened the floodgates to a resurgence of overt racism that has not been seen in Australia for many years1.

Given the current political climate within which Aboriginal and Islander people find themselves and the identification of issues that has been informed by extensive reviews of the literature, a number of areas of inquiry are of interest. This paper will provide an overview of those areas and is intended to provide the foundation for further discussion papers.

The first section outlines the unique structure of ATSIC which combines representation and bureaucracy. The roles and responsibilities of the representative and administrative arms of ATSIC and its program structure are described. The second section provides a discussion on ATSIC-specific funding mechanisms and processes. This is a lengthy section, as the expenditure of public monies is a critical issue within ATSIC. Major funding issues between the ATSIC Commission and the Regional Councils are then discussed, including Regional Council Plans and horizontal equalisation. Other funding processes and mechanisms are outlined in the fourth section of the paper. These are discussed within the context of fiscal federalism, and

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1 Part of Hanson's speech states: 'We now have a situation where a type of reverse racism is applied to mainstream Australians by those who promote political correctness and those who control the various taxpayer funded 'industries' that flourish in our society servicing Aboriginals...Present governments are encouraging separatism in Australia by providing opportunities 'land, moneys and facilities available only to Aboriginals. Along with millions of Australians, I am fed up to the back teeth with the inequalities that are being promoted by the government and paid for by the taxpayer under the assumption that Aboriginals are the most disadvantaged people in Australia. I do not believe that the colour on one's skin determines whether you are disadvantaged...Reconciliation is everyone recognising and treating each other as equals, and everyone must be responsible for their own actions. This is why I am calling for ATSIC to be abolished. It is a failed, hypocritical and discriminatory organisation that has failed dismally the people it was meant to serve. It will take more than Senator Herron's [Coalition Minister for Aboriginal and Torres Strait Islander Affairs and physician] surgical skills to correct the terminal mess it is in...we must have one people, one nation, one flag' (Commonwealth Parliamentary Debates).
issues of transparency and tracking of Aboriginal expenditure are also examined. This is followed by a brief discussion of the ATSIC Office of Evaluation and Audit.

The last section of the paper provides a general discussion of the crucial issue of accountability, focusing on mainstream accountability processes, Aboriginal accountability, and the potential for change. The conclusion of the paper examines ATSIC’s dual role as an institution of self-determination and a bureaucratic agency, and identifies areas for further research.

The Creation of ATSIC

ATSIC was created by the Commonwealth government in November 1989 through the enactment of the Aboriginal and Torres Strait Islander Act. It was created to replace the Department of Aboriginal Affairs and the Aboriginal Development Commission, both of which had long attracted criticism for not adequately addressing the needs of Aboriginal and Torres Strait islander people. ATSIC administers a diverse range of programs, and views itself as ‘...a unique, decentralised organisation, combining representative, policy-making and administrative elements...(and) designed to put into effect the principle of self determination for Aboriginal Australians...’ (ATSIC 1996b: 2).

ATSIC did not come into being without a tremendous amount of acrimonious debate in Parliament. For example, when then Minister for Aboriginal Affairs Gerry Hand first introduced the ATSIC Bill to Parliament in December of 1987, the government was subjected to relentless questioning regarding the public accountability of past and current administration of Aboriginal affairs. Specific issues included structure and function, public accountability, Aboriginal representation and non-Aboriginal administration, and decision-making capacities (see Dillon 1996; Rowse 1994; Sanders 1993a, 1993b; Sullivan 1996). When Prime Minister Hawke introduced the substantially revised legislation to Parliament in April of 1989, he assumed that his government had found the ‘right balance between the principles of self-management and of overall ministerial responsibility’ and had addressed adequately the concerns of the opposition (Commonwealth Parliamentary Debates, H of R Vol. 166: 1325). The changes that had been made to the draft bill were not, however, sufficient to satisfy the Coalition, the Democrats and other critics. Sanders (1993a) notes that over the following six month period, over 91 amendments were made to the proposed legislation. Most of them had to do with public accountability.

The notion of Aboriginal accountability raised the issue of self-determination as a means of exercising the right and ability of people to chose their own destiny. The attempted implementation of self-determination policies by the Whitlam government in the early 1970's was viewed by some as innovative2. However, the policy of Aboriginal people managing their own affairs as individuals or groups did not arise from consultation by government with Aboriginal people. It was developed, for the most part, by non-Aboriginal politicians and bureaucrats. Cowlishaw (1988) points out that even when Aboriginal people questioned components of the policy, their comments and suggestions were ignored by non-Aboriginal bureaucrats. In 1975 when the Whitlam government was replaced by the Liberal-National Coalition, self-determination became self management.

There were other conceptual and practical difficulties associated with the implementation of self-determination/self-management. There was no clear consideration given to the limits on self-determination likely to be imposed by the larger non-Aboriginal community. Many of the non-Aboriginal bureaucrats involved in implementing the new policies were not sympathetic towards those Aboriginal perspectives that were at odds with dominant practices and economic structures. Further, while Aboriginal people were to finally make their own decisions, it was unclear as to which areas they were going to make their own decisions in. There was a lack of skilled human resources at the local level, as well as a lack of clarity on the part of Aboriginal people regarding exactly what was needed to improve the economic conditions of their lives. The government viewed the people as the problem, as they lacked the capacity to take over areas of decision-making where, prior to this change in policy, Aboriginal involvement had been forbidden. While community residents were certainly aware of injustices in their lives and expressed frustrations about their lack of power, most did not consider themselves a social problem.

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2 There were four components to Whitlam's policy reforms: the implementation of legislation to enable Aboriginal communities to incorporate, the development of the National Aboriginal Consultative Committee, increased expenditure on Aboriginal programs, and the commissioning of the North Territory land rights inquiry.
There was also the question of whether self-determination of the new Whitlam era meant the same thing to
the bureaucrats, the Aborigial leaders and community residents. Did it refer to economic or political
independence? Was funding supposed to reduce the worst material deprivation? If so what would that
achieve in the longer term? This ambiguity continues to hold true in the operations of ATSIC as an institution
and as a policy body.

The Blending of Two Worlds: Representation and Administration

The structure of ATSIC is unique in the Australian public sector. Chesterman and Galligman (1997: 213) note
that ATSIC is 'something of an amalgam', composed of an elected representative arm and a bureaucratic
administrative arm. Aboriginal representatives are elected by the Aboriginal population. As such, these
elected representatives have dual accountability to both the Minister of Aboriginal Affairs through the ATSIC
Act 1989 and to their Aboriginal constituents. The administrative arm – the ATSIC bureaucrats – are
accountable to the government and 'legally required to serve its purposes' (Coombs 1994: 185). ATSIC is the
peak Aboriginal elected representative body while, at the same time, it functions virtually as a government
department.

This particular structure has been described as an 'innovative structure which ambitiously attempts to
combine both representative and executive responsibilities and functions' (Dillon 1996: 89). This dual role is,
however, problematic, as principles of representative democracy are in conflict with principles of ministerial
responsibility, as illustrated by the fact that the chairperson of ATSIC is appointed by the Commonwealth
Minister for Aboriginal Affairs. Further, the financial accountability requirements of ATSIC resemble more
those of a government department than of an Aboriginal representative organisation, a point dealt with later
in this paper, as is the appointment by the Howard government of a Special Auditor to examine the financial
documentation of ATSIC-funded Aboriginal organisations. It has been noted that this appointment is
'symptomatic of the strained relations' between the Commission and the federal government (ATSIC 1997:
25).

Representative Arm

There are 35 Regional Councils grouped into 16 regional zones³ and the Torres Strait Regional Authority.
Each Regional Council has a maximum’ of 12 elected members. Elections are held every three years.
Individuals elected to Regional Councils represent the interests of their local communities (see ATSIC 1993).
A chairperson and deputy chairperson is elected in each Regional Council, which then meets at least four
times per year. As part of the election process, councillors in each zone elect one member to represent them
on ATSIC’s national Board of Commissioners for a total Commission elected membership of 17. The Minister
responsible for ATSIC then appoints two additional commissioners plus a chairperson for a total membership
of 20. The Board is legally required to determine financial priorities, develop budget estimates and develop
annual draft budgets for approval by the Commonwealth Minister. It is the joint responsibility of the Board
and the 36 Regional Councils to develop and monitor ATSIC programs and policy at both national and
regional levels.

Each Regional Council is responsible for the formulation and revision of regional plans. The intent of these
plans, submitted each year to the Board of Commissioners, is to improve the social, economic and cultural
life of Aboriginal people. They also contain the expenditure proposals for each program under Regional
Council jurisdiction. It is the role of the ATSIC Board of Commissioners to determine financial priorities,
develop budget estimates, and develop draft budgets. Funds are allocated by the Board of Commissioners
to the ATSIC Regional Councils, based on the recommendations of the ATSIC State offices and on the
priorities laid out in the regional plans submitted by the Regional Councils to the Board of Commissioners.
Regional Councils act as financial mediators between ATSIC and local communities in making proposals for
regional budget expenditure. Decision-making at the Regional level is limited in scope, however, as a
number of items are referred to as 'Commission Items' and are excluded from Regional Council discretion
(for example, CDEP, state grants, housing loans). In addition, there are a series of programs that are
considered to traditional in scope which are excluded from regional decision-making, such as the Australian
Institute for Aboriginal and Torres Strait Islander Studies and Aboriginal Hostels Ltd. Further, the Regional
Councils themselves do not allocate the monies to various organisations and programs. This is done by the
ATSIC Regional Offices.

³ These zones are not based on boundaries traditionally recognised by Aboriginal people, but represent
administrative boundaries determined primarily by non-Aboriginal bureaucrats. The Torres Strait is counted
as one region or zone.
**Administrative Arm**

The bureaucratic arm of ATSIC is comprised of public servants, many of whom have been working within various incarnations of Aboriginal affairs departments for many years (personal communication senior ATSIC bureaucrat 1997). ATSIC's staff is accountable to the government rather than to the Aboriginal communities. Under the *ATSIC Act 1989*, bureaucrats are legally required to serve the purposes of the government. ATSIC's administration is staffed under the *Public Service Act 1922* and is headed by a Chief Executive Officer (CEO), a statutory officer appointed by the Minister who heads a team of Senior Executive Service (SES) officers. These Officers are comprised of General Managers (division heads), Assistant General Managers (branch heads) and State Managers. The Director of Evaluation, also a statutory officer, is a member of the SES. The administration is divided into three tiers: the central office in Canberra, State offices in every capital city, and 27 regional offices locate throughout Australia (ATSIC 1997).

**Program Structure**

The current program structure is extremely complex. As of 1996-97, there are a total of four program areas: economic, social and cultural, strategic development and support, and corporate services. Under these four program areas fall a total of 26 sub-programs. These sub-programs are comprised of what ATSIC terms 'components' (23 in total) and 'sub-components' (16 in total). It is not the purpose of this paper to provide a detailed breakdown of sub-programs, components and sub-components, and the reader is encouraged to refer directly to the ATSIC Annual Reports. It is helpful, however, to provide a brief example demonstrating the complexity of the structure.

In the case of the economic program, there are five sub-programs: commercial, employment and training, commercial development corporation, Aboriginal land corporation, and program support. Each of these is then broken into components. The commercial sub-program components include business development, land acquisition and maintenance, and industrial relations. Business development is broken into three sub-components of business funding scheme, community economic initiatives scheme, and industry strategies. Land acquisition and maintenance is broken into three sub-components: payments to regional land fund, land acquisition, and land management. The sub-program of employment and training has only three components: CDEF, CDEP other, and community training. The structure of the Social and Cultural program is equally complex. Reporting on each sub-program is broken down by objectives, description, priorities, performance indicators, performance outcomes, and future directions.

The appropriation components for each of the program areas in 1996-97 were as follows: economic program, $526 457 000; social and cultural program, $455 410 000; strategic development and support, $199 848 000; corporate services, $34 762 000, and the Torres Strait Regional Authority, $36 343 000. The total portfolio expenditure was $1 199 181 000. Program costs amounted to $960 083 000 of this total expenditure. The 1996-97 Annual Report notes that Regional Councils administered approximately 58 per cent of ATSIC’s program budget.

**ATSIC-Specific Funding Mechanisms and Processes**

While ATSIC describes itself as the 'principle Commonwealth agency operating in the field of Aboriginal affairs', it is important to keep in mind that ATSIC is only part of a large infrastructure of organisations that provide services to Aboriginal people. Through this infrastructure, financial assistance is provided by ATSIC directly through grants to incorporated community organisations to undertake activities on behalf of their communities. Financial assistance is also provided through grants to State and Territory governments, which are then supposed to provide services to Aboriginal and Islander people.

ATSIC provides funds to Aboriginal communities that would flow directly from the federal and state governments if the communities were non-Aboriginal. These funds are not meant to supplant funds provided by state governments for the general population. Nor are they meant to replace other mainstream federal, state of local government funds from which Aboriginal populations benefit later in this paper. Whether this actually occurs is discussed.

Financial roles undertaken by the Board of Commissioners, Regional Councils, the minister and the bureaucracy are guided in principle by the objectives of the *ATSIC Act 1989*. These objectives emphasise the need to ensure the maximum participation of Aboriginal people in the formulation and implementation of government policies affecting them; promote the development of self-determination and self-sufficiency;
further Aboriginal economic, social and cultural development; and ensure co-ordination of policies which affect them at all levels of government. Funding directions are influenced by broader public policy issues of program evaluation, financial accountability, and allocative efficiency.

It is useful to provide a brief summary of the Commonwealth budgeting process (see Commonwealth Department of Finance 1996)\(^4\), followed by a summary of the ATSIC annual budget planning cycles (ATSIC 1996a).

**Parliamentary Budget Process**

The Departments of Prime Minister and Cabinet, Treasury and Finance provide advice to government and departments on aspects of the budget formulation process. Treasury is responsible for advising on the economic outlook and on economic and fiscal strategies, the development of revenue estimates, and the provision of advice on taxation measures. The Department of Finance is responsible for developing outlays estimates. Finance then analyses that information and provides advice to the Expenditure Review Committee (ERC)\(^5\) and Cabinet on aggregate budget outlays and options for reallocation or reductions in outlays. Treasury and Finance together are responsible for compiling most of the budget documents.

Departmental systems support the budget process. In the case of ATSIC, however, the budget process is rather unique. ATSIC is not considered to be a parliamentary department, although it exists virtually as a parliamentary department since 'accounting responsibilities have identified it more clearly – as a government department than an instrument of Aboriginal representative democracy' (Chesterman and Galligan 1997: 213). The ATSIC Board of Commissioners is not able to offer certainty of access to resources by Regional Councils, or even the right to negotiate for such resources through the budget process. Resource allocation occurs through the mainstream budget cycle.

**ATSIC Annual Planning Cycle**

In the first quarter of the calendar year, program managers and the planning section of ATSIC begin preparation of the ministerial submission to vary Regional Council Budgets and National Program estimates, based on requests by regional, state and program managers. Corporate half-yearly expenditure reports are prepared for the Executive. Depending on Commonwealth budget timetables, work begins on drafting new policy proposals for submission to the Minister. Regional Councils discuss funding applications and consider regional allocations for the following year, while State Advisory Committees consider various budget related matters, including grants for their own states and multi-regional project applications. Expenditures and commitments are reviewed, potential problem areas identified, and re-allocations made where appropriate. The Expenditure Review Committee also considers new policy bids. At this time, Regional Councils also determine the allocations and submit Regional Council Estimates.

In the second quarter, the Ministerial Submission to vary Regional Council Budgets and National Programs is prepared by the Budget Implementation and Administration Section of ATSIC, based on requests by regional, state and national managers. The Commission endorses Regional Council estimates, and considers and approves the national budget, subject to final appropriations. The Minister then approves budget and Regional Council estimates and prepares for Senate Legislation Committee consideration of the budget estimates. The Senate Legislation Committee then considers the draft estimates and the Appropriation Bill is passed.

The following two quarters deal with accounts reconciliations, planning for the next financial year, preparation of current year revised estimates and submissions for additional estimates. The ATSIC estimates for the following year are presented to the Commissioners. The Commissioners also consider regional/national allocations, review the draft Regional Council budgets, and review expenditure and commitments.

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\(^4\) It is not the purpose of this paper to provide an extensive analysis of processes of Commonwealth budget development and implementation. For a good non-technical summary see Commonwealth Department of Finance 1996. The material in this publication is designed to skill-up those officials of the Commonwealth Government who require a working knowledge of the budget process without extensive detail as to the intricacies of the process.

\(^5\) The ERC is a committee of Cabinet that sifts through the various new policy and savings proposals. It then recommends to Cabinet those proposals to be included in the budget. Cabinet usually meets a fortnight prior to the release of the budget to consider the ERC recommendations and to formally finalise what the budget is to contain. The ERC consists of the Prime Minister, the Treasurer, the Ministers for Finance, Health and Family Services, Primary Industries and Energy and the Assistant Treasurer.
The ATSIC Budget

The ATSIC planning and budget cycles very much reflect mainstream budgeting processes, although the ATSIC Annual Reports for 1995-96 and 1996-97 clearly state that 'ATSIC is an independent statutory authority, not a ministerial department' (ATSIC 1996b: 6). Where the process supposedly differs is in the role played by the ATSIC Board of Commissioners.

Technically, the Commissioners experience relative autonomy in making decisions about the budget, Regional Council allocations, and policy priorities for the coming year as many of the functions previously performed by the Minister for Aboriginal Affairs were transferred to the Commission under the ATSIC Act 1989 (ATSIC 1997). This does not appear to be the case in reality. The Annual Report itself states that the Minister must approve the ATSIC estimates and the form of those Estimates. The Minister also has 'a power to issue General Directions to the Commission and Directions about the administration of ATSIC's finances' (ATSIC 1997: 6).

In the case of the 1996-97 budget cycle, the extent of the power retained by the Minister became very clear. The Howard Coalition government made the decision to cut ATSIC expenditure by 11 per cent. The Community Development Employment Program (CDEP), community housing and infrastructure, and support for Native Title Representative Bodies were quarantined by the Minister, representing approximately two-thirds of ATSIC's program outlays. This quarantine was imposed by the Minister without consultation with the Commissioners. The quarantine on these programs meant that the remaining one-third of the ATSIC programs had to bear the brunt of the cuts.

In making the decisions on which programs were to be affected by the budget cuts, the Board of Commissioners developed four principles to determine priorities between programs. Those programs that preserved cultural heritage, promoted the distinct identity of Aboriginal Australians, enhanced the rights of Aboriginal peoples, and were not provided by other agencies were given priority. The ATSIC Board, using these principles as the basis for decision-making, eliminated the Community Training Program, the Development of Industry Strategies, the Community and Youth Support Program, and the Movement to Award Wages Program.

The impacts on what are considered to be vital programs in Aboriginal communities were severe and immediate. They included the elimination of ATSIC labour market programs (with the exception of the CDEP as part of the quarantine), the elimination of financial support to those organisations moving their Aboriginal staff to award wages, and the elimination of Community Services and Welfare to Aboriginal people. There were also significant reductions in the capital budget and training elements of the CDEP program, business funding, and decreases in the budget for Aboriginal Hostels. These reductions have resulted in reduction in the scope for wealth generation by Aboriginal communities, the closure of some hostels and the probability that few or no new Aboriginal aged care hostels will be built in the coming years. Cuts to ATSIC running costs necessitated the shedding of staff, the reprioritisation and work, and a major restructuring of ATSIC's Canberra office. This restructure involved the transfer of some program elements between divisions, and rearrangements within divisions (ATSIC 1997).

The budget cuts also had wide-ranging impacts on the reconciliation process, noted by the then Chairperson of ATSIC Lois O'Donohue

Such outcomes sit ill with the enduring need to address the underlying causes of Aboriginal disadvantage so forcefully identified by the Royal Commission. Small wonder, too, that many Aboriginal and Torres Strait Islander people now seriously doubt whether the reconciliation process can bear any fruit (ATSIC 1996: 24).

O'Donohue did not dispute that difficult financial times call for difficult decisions on the part of government. She did dispute the fact that the burden of those decisions should have been distributed on an equitable basis with full regard paid to relative disadvantage and need. All available statistical measures and extensive documentation demonstrate clearly that Aboriginal and Torres Strait Islander people remain the most disadvantaged group of Australians. In comparison with the mainstream population, mortality rates and birth rates are both higher, and mortality rates are up to seven times higher for particular age groups. The incidence of chronic disease is also higher and three out of ten individuals are often worried about going

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6 There are numerous reports, books and other publications documenting the disadvantages faced by Australian Aboriginal and Torres Strait Islander peoples. For further reference see, for example, Franklin and White 1997; House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs 1992, 1994; Mobbs 1997; Reid and Trompf 1997.
without food. Housing is frequently below standard and is over-crowded. Aboriginal unemployment figures are higher and education attainment lower as nearly half of those aged 15 and over have no formal education or have not reached year ten. Government payments are the main source of income for over half of the working age population. These conditions are prevalent not only in remote Aboriginal communities, but are found in urban locations such as Brisbane and North Stradbroke Island.

The 1997 Commonwealth budget provided a four year funding guarantee to ATSIC. As noted in the Chairman’s address, ‘For the first time in the history of Aboriginal affairs, ATSIC can extend triennial funding to eligible organisations as part of its program of grant administration reform’ (ATSIC 1997: 24). ATSIC’s global budget was increased by $60 million – $15 million per year for the guaranteed period – to accommodate new initiatives. Approximately $10 million of the $15 million increase per year is to be used to establish a new program aimed at supporting business ventures that create jobs. The Chairman notes, however, that ‘...the additional funds by no means offset the loss of $470 million over the years 1996-97 to 1999-2000 announced in the 1996 budget' (ATSIC 1997: 25).

The Chairman also noted that although ATSIC was seriously pursuing a renewed partnership with government, it still had profound concerns with aspects of Coalition policy. These concerns related primarily to the Coalition’s stance on the amendments to the Native Title Act 1993 and the implications of the Wik judgment. Nevertheless, ATSIC continues to seek meaningful negotiations with the Government and stakeholders aimed at achieving fair and practicable outcomes on the basis of coexistence and the protection of the native title rights’ (ATSIC 1997: 23).

Commission-Regional Council Funding Issues

The ATSIC Board of Commissioners allocates funds to the Regional Councils based on recommendations from the ATSIC State offices and the regional plans that are developed by individual Councils. The development of the regional plans is, however, problematic.

Regional Council Plans

Regional Council plans are 'expected to identify local needs, aspirations and priorities, and propose development strategies for achieving improvements' (Smith 1993b: 8). Wolfe (1993a) notes that some Regional Councils find the plans impossible to develop as the notion of 'region' that had been ascribed by ATSIC to that particular area is too diverse. The quality of the plans do vary greatly between Regional Councils, as does the time spent on their development and the subject matter.

There is an underlying tension between the Regional Councils and Board of Commissioners, as the Board of Commissioners is expected to make decisions on the basis of national priorities and budgets, and Regional Councils are expected to make decisions reflecting local priorities and needs outlined in their planning documents. Funding allocations by the Commission based on these plans is somewhat flawed as issues of regional disparity, insufficient funds, overlapping State/Commonwealth programs, and Aboriginal politics play major roles in how the allocations are made and cause a mismatch between planned expenditure and actual allocations.

These issues are discussed in the next section within a context of horizontal equalisation. Equalisation, first raised in 1993 by the Commonwealth Grants Commission, continues to be seen as a possible means of providing some solutions to current Commission-Regional Council funding issues.

Horizontal Equalisation

Substantial regional differences exist within the Aboriginal population (see Sanders 1993a, 1993b, Smith 1993a, 1993b and Tesfaghiorghis 1991). This extreme regional socioeconomic variation has important implications for the distribution of funding to Aboriginal people and for program and policy effectiveness (Smith 1993a, 1993b). The size of the region, both demographically and geographically, has little or no

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7 An urban Aboriginal community has been defined by the House of Representatives Standing Committee on Aboriginal Affairs Report Mainly Urban (1992) as ‘a town with a population of 1000’ or more’. This is consistent with the definition of urban used by the Australian Bureau of Statistics. Given that the Aboriginal community of North Stradbroke Island is only one half hour from metropolitan Brisbane by ferry and there is substantial commuting by Island residents to the mainland for work, North Stradbroke Island is considered by the author to fall into the category of 'urban'.
bearing on funding decisions made by the Commission on Regional Council allocations, which tend to reflect historical patterns established by political decisions early in ATSIC's history.

Horizontal equalisation – developed in the 1930’s by the Commonwealth Government based on principles of social justice and equity – has been put forward as a partial solution to this problem (Commonwealth Grants Commission 1993; Smith 1993a, 1993b). Although it would require substantial modification to suit the Aboriginal management of public sector monies, horizontal equalisation could lead to more equal fiscal treatment of the regions by government. The Commonwealth Grants Commission (1993) has argued that ATSIC should move towards an approach for harmonising distribution principles with fiscal equalisation based on the differences between Regional Councils.

Equalisations broad objectives would support flexibility in the pursuit of different budgetary and program aims at the regional level, accommodate changing socioeconomic factors affecting regional populations, and recognise the crucial impact of regional economic and social diversity of financial assistance requirements (Smith 1993b: 13).

Regional differences include population size, geographic area, health characteristics, labour force participation rates, participation in the informal economy, extreme variations in income levels and cost of living, and extreme variations in educational attainment. Differences also exist in whether land is Aboriginal-owned and in economic options pertaining to land ownership. The type and extent of government funding, transfer flows into the region, differing levels of socioeconomic disadvantage, varying service provision costs, and different regional economic opportunities also have an impact. All of these factors create very different program and funding needs between Regional Council areas.

There are a limited number of mechanisms by which horizontal equalisation could be achieved, including the equalisation of the capacities of organisations and communities at the regional level to undertake capital, and recurrent program expenditures (Smith 1993a, 1993b). ATSIC would also have to decide which disability factors and socioeconomic disadvantages were pertinent to its own program activities in order to equalise the flow of resources and service provision. It would not, however, be possible to equalise the broad expenditure capacities of Regional Councils, given ATSIC's limited budget, the budget flow, the variable level of Aboriginal socioeconomic status between regions, and the widespread lack of coordination of government funding and service delivery in the Aboriginal affairs area.

Additional factors mitigating against the implementation of an equalisation approach include the paucity of data on Aboriginal expenditure between Commonwealth, State and Local governments and the lack of standardised, comparative data from Regional Council levels and government departments. Inadequate mechanisms for fairly assessing regional funding needs in the absence of any discrete funding policies by which national and regional decisions can be guided is also a major deterrent. Further, the paucity of effective program outcomes at the Regional Council level can greatly complicate the implementation of equalisation. There appears to be an extreme variation in the quality of program and service delivery between regions, although this point requires further research. Current research is also demonstrating that politics at regional and local levels would have a tremendous impact on the implementation of equalisation. In order to increase funding to one region, funding in other regions would be decreased as there are no proposed budget increases to Regional Councils planned for the foreseeable future. This makes it very difficult, if not impossible, to equalise payments. It would have been expedient to take issues of equalisation into consideration earlier in the life of ATSIC, as it is extremely difficult politically and practically to reduce funding of some Regional Councils in order to supplement funding to others.

In 1993, Jackie Wolfe noted that 'Regional Councils have become the locus and focus for lobbying and political infighting for scarce dollars among competing local Aboriginal interests' (1993b: 8; see also Wolfe 1993a). My research shows that this remains true. In interviewing a number of Aboriginal community residents, politicians and ex-ATSIC representatives, the lack of adequate resources and its impact on the effective functioning of Regional Councils continues to arise as a major source of conflict between Commissioners, within and between Regional Councils, and between Commissioners and Regional Councils. Further, the paucity of integrated policy guidelines for ATSIC distribution of funds at regional, state and national levels is contributing greatly to problems of political infighting. Further research is warranted in this area.

**Other Funding Processes and Mechanisms**
A perception exists with bureaucrats in all levels of government that ATSIC is the primary source of funding for Aboriginal affairs, a perception that extends beyond bureaucratic realms into the general population. This perception is not reflective of reality.

ATSIC provides only a portion of the total expenditure on Aboriginal affairs. Communities and organisations also receive government funds from other Commonwealth Government departments such as DEETYA, the State governments and Local governments. This raises a number of accountability and efficiency issues in relation to principles of fiscal federalism, tracking expenditure for analytical and implementation purposes, targeting Aboriginal expenditures generally, and getting a general sense of the interrelationships involved in the funding of Aboriginal affairs.

For example, B. Smith (1996b) notes that prior to the Constitution Alteration (Aboriginals) 1967 Referendum, Section 51(xxvi) of the Constitution was interpreted to mean that Aboriginal affairs were state affairs. The purpose of the referendum, however, meant different things to different stakeholders. Some thought it would enable the Commonwealth to eradicate racism and discriminatory practices against Aboriginal people. Others thought it would give Aboriginal people equal access to the goods and services available to the non-Aboriginal population. In reality it did not achieve these effects. Nor did it result in a change in the Commonwealth's arrangements with the States (see Attwood and Markus 1996; Maher 1979; Raines 1991; Smith 1996b).

This has implications for the current state of funding for Aboriginal affairs programs by the States, as ATSIC funds are not intended to replace programs the States offer to all members of the population. This is a critical issue in the funding of Aboriginal programs and services as the current arrangements in place between the Commonwealth and the States allow the States to escape their obligations to Aboriginal people. This pertains to both General Purpose Payments (GPPs) and Specific Purpose Payments (SPPs). For the purposes of this paper, the latter are the most critical as Commonwealth funding is tied specifically to meeting accountability objectives.

**Fiscal Federalism**

B. Smith (1996a, 1996b) notes that while the States agreed to unite in one indissoluble Federal Commonwealth (Commonwealth of Australia 1995), the protracted constitutional negotiations, the wording of the Constitution itself and subsequent challenges over Commonwealth and State rights suggest that it was a confederation of convenience between seven countries. Where possible the States were, and remain, keen to ensure that the rights of individual states will prevail. The Commonwealth has a corresponding objective in terms of shifting burdens and off-loading responsibility for the funding of programs and services to the States wherever possible. This has particular implications for fiscal relations and is reflected in the delivery of programs and services, costing, and jurisdiction. Relations between the two orders of government are primarily about

Commonwealth and State 'managers' (elected and appointed officials, particularly of the executive branch) making incremental changes to financial and functional arrangements – often moving the ball backwards and forward over who should pay, who should deliver, who should monitor performance and who will get the credit (Smith 1996a: 4).

**General Purpose Payments**

The States access a number of sources of funds which are used to finance programs and services. One of these is State taxation, although the States never raise sufficient revenues to cover expenditure on State-type programs and services. Another source of funding is General Purpose Payments, or general revenue assistance provided to the States by the Commonwealth. This assistance can be used at the discretion of the States. The proportion of assistance is calculated through the Commonwealth Grants Commission (CGC) fiscal equalisation process and includes revenue factors such as disabilities. The level of representation of Aboriginal and Torres Strait Islander people in a State's population is one of the disabilities which is considered in the calculation (see Commonwealth Grants Commission 1995; Searle 1995; Smith 1996b).

The CGC does not make the payments to the States and does not monitor how the payments are utilised. Its only role is to calculate levels of assistance required to ensure that the States have the capacity to provide an average (national) standard of all services which are State responsibilities (Commonwealth Grants Commission 1995). The States have the sole right to determine the level, quality and distribution of programs and services and, as noted by Smith (1996b: 9)
If a State...decides to offer a lower-than-average national standard level of service to all its citizens or to certain groups of citizens or to certain geographic locations, it has the constitutional right to do so.

This is particularly problematic for ATSIC and the funding of programs and services to Aboriginal people. The Social justice Commissioner, ATSIC, and the Council for Aboriginal Reconciliation have all made it clear to the Commonwealth and State governments that they are failing to provide Aboriginal people with access to levels of service acceptable to the non-Aboriginal population in areas of health, education, housing and employment. This failure results in duplication of efforts and overlapping responsibilities as ATSIC attempts to provide adequate funding to Regional Councils to support the services to Aboriginal communities that are not being provided by Commonwealth and State governments. The impacts of this duplication on ATSIC and Regional Council operations warrant further research.

### Specific Purpose Payments

The general purpose untied grants flowing from the Commonwealth Government to the states are only one half of the fiscal federalism equation (see joint Committee of Public Accounts 1995; Sanders 1995; Smith 1996a, 1996b). The other half is the multiplicity of specific purpose payments flowing between government agencies operating at different levels of government in similar policy areas.

Specific purpose payments (SPPs) are paid mainly to State governments by the Commonwealth to fund activities on the condition that certain performance and accountability criteria are met. The assistance is provided under section 96 of the Constitution, which allows the Parliament to grant financial assistance to any state on such terms and conditions as Parliament sees fit (joint Committee of Public Accounts 1995). The tracking of these grants is problematic in that they are known by different names and there is a constant turnover as new SPPs are established and old ones cease. Confusion is exacerbated by the fact that SPPs are categorised not by what they are, but what they are not – i.e. not general purpose payments.

While these grants have traditionally had conditions attached⁸, it is common knowledge that these conditions are seldom reported on by the States and it would appear, in some cases, that SPPs are treated as substitute general purpose funding.

Auditors-General have consistently noted that while the arrangements for almost all SPPs required adequate assurance to be provided by the State that Commonwealth funds are being expended on intended purposes, consistent delays in the provision of statements of expenditure and independent certification indicate a failure of accountability⁹. Reports have noted that improvements are required in the provision of statements and expenditure certifications, reporting to Parliament, and the collection and use of data on SPPS. There is also a need for formal agreements that include program goals, performance indicators, targets and sanctions to facilitate the management of SPPS. Some agreements are not comprehensive enough to be useful management tools (see Auditor-General 1991, 1994, 1995; joint Committee of Public Accounts 1995). It is clear that reform of the SPP process is in order.

In view of the necessity for reform, the Joint Committee of Public Accounts (1995) provided a list of what comprises the ideal Specific Purpose Payment in The Administration of Specific Purpose Payments: A Focus on Outcomes. The purpose of SPP reform is to ‘ensure that those individuals or groups in the community who receive SPP funded services, of whatever form, receive the most efficient and effective service, delivered in the most economic way possible’ (1995: 101). The issue that is not addressed, however, is that the people who are intended to benefit from the SPP funded services, including Aboriginal people, are not receiving the benefits. To accomplish significant reform, objectives must be expressed in terms of measurable outcomes, performance indicators linked to objectives and data collection requirements linked to each performance indicator. Clear roles and responsibilities for each party to the agreement must be spelled out. Further, primary accountability to the Commonwealth should be geared toward outcomes achieved.

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⁸ The Joint Committee of Public accounts notes that a very small number of SPPs paid to the states that are not subject to expenditure conditions by Parliament. They are typically revenue sharing arrangements or compensation either for the transfer of programs, or for other Commonwealth action. An example is the Compensation-Companies Regulation (Foregone Revenue Payments) SPP.

⁹ Smith (1996a) is of the view that since the early 1970's SPPs have been increasingly used by the Commonwealth to directly fund functions that are, or are interpreted to be, areas of joint responsibility. He also notes that SPPs have been used by the Commonwealth to influence areas over which the Commonwealth has no jurisdictional power. This perception held by the States may have some impact on the recalcitrance with which the States meet accountability requirements. This is an issue that warrants further research.
rather than inputs and processes. Graduated sanctions for non-compliance should be instituted. Lastly, Commonwealth acquittals of SPPs should be based on audited annual financial statements.

The joint Committee did note that incorporation of these terms into SPPs is not a simple process, particularly for the large, ongoing SPPs in the areas of health, education and community services.

Reforms will be gradual, not just because of the difficulties in measuring outcomes and performance, but also because of the impossibility of quickly reorganising complex systems without service delivery suffering (1995: 100).

In summary, while the Commonwealth provides the bulk of States' revenue, it has an ongoing problem of ensuring State cooperation and financial and performance accountability in the administration, management and acquittal of tied grants such as SPPS, and absolutely no authority over the expenditure of general purpose payments. As there appears to be little compelling the States to comply with reforms, it is questionable whether any change is imminent. As ATSIC has a role to play in programs requiring cooperation between the Commonwealth and the State government, the behaviour of the States poses a problem for ATSIC in terms of inadequate service provision, duplication and cost inefficiencies, and the total obfuscation of actual expenditure. As noted earlier in this paper, this results in duplication of efforts and overlapping responsibilities as ATSIC attempts to provide programs and services to Aboriginal people that are in reality the responsibility of the State.

**Tracking Aboriginal Expenditure**

The attempt to track expenditure patterns within a mainstream Commonwealth-State budgeting context is difficult enough. Tracking expenditure on Aboriginal programs within this context is virtual impossible as

> Typically, governments have no clear overview of the total state funding situation, let alone that for a regional of specific Aboriginal community...no mechanisms whereby data relating to state expenditure on programs for Aboriginal people are comprehensively disaggregated...it is not possible from published documents to trace Commonwealth or State Government expenditure for a range of budgetary functions down to individual communities (Smith 1992: 1).

Further, the lack of clarity pertaining to the division of financial responsibility between the Commonwealth and State Governments 'further obscures the financial pathways linking government budgets to program expenditure' (Smith 1992:2). This obfuscation is made worse by the fact that the Commonwealth Grants Commission, while concerned with the equal capacity of States to provide services, has no role in assessing outcomes or in requiring an expenditure acquittal. This brings us to mainstream programs and services and Aboriginal expenditure.

Smith (1992) points out that mainstream programs can take a number of different forms with respect to their objectives and service delivery. Some have no specific Aboriginal focus, dealing with all clients on the same access bases. Others have specific Aboriginal elements that may or may not be delivered by the same agency. Complicating this process is the reality of the multiplicity of funding agencies that provide programs and services to Aboriginal peoples through mainstream activities. For example, Sanders (1993a) notes that the highly visible expenditure on Aboriginal people through Commonwealth and State Aboriginal affairs portfolios is combined with slightly less visible expenditure through Aboriginal-specific program elements in mainstream portfolios, and the largely invisible inclusion of Aboriginal people in mainstream programs of mainstream portfolios.

**Fiscal Federalism**

Fiscal federalism has a substantial influence on self-determination, and subsequent policy development and implementation in ATSIC. In a federated system, there are a number of policies impacting on Aboriginal affairs at both federal and state levels of government and, as Davis et al. (1993: 68) note, ‘(w)here programs are based on a division of both political powers and financial resources there are going to be hiccups’. Often the goals and objectives of these policies may conflict. Arguments between departments and within departments of both levels of government are frequent as departments or sections within them have their own isolated views of Aboriginal affairs. This has impacts on self-determination as it becomes impossible for ATSIC and Aboriginal communities, organisations and institutions to get a handle on the myriad of programs, services, and fiscal resources that are duplicated by, at a minimum, two levels of government (see Galligan et al. 1991). In this case, ATSIC does not have a mere case of the hiccups.
It is very difficult, if not possible, to develop coherent policy in an absence of transparency and accountability between not only the two levels of government, but between government departments as well. Davis et al. note that ‘federalism implies fragmentation, a society shattered into multiple, competing centres of authority’ (1993: 249). Policies on self-determination become fragmented as competing interests attempt to deliver programs and services. This is exacerbated by the fact that there is a lack of information regarding how intergovernmental relations impinge on particular areas – especially the area of Aboriginal affairs. The interactions involved in decision making in particular policy areas, and how these interactions affect the actual delivery of services is not well known.

The end result of all of this is that it is very difficult, if not impossible, to determine actual program and service delivery and Commonwealth/State expenditure on Aboriginal affairs. Governments argue that it is inherently difficult to keep track of actual dollars expended on programs and services with Aboriginal clients, especially in the area of untied grants and mainstream services. The States further argue that identifying such expenditure data separately focuses unduly on Aboriginal people. Both arguments help to perpetuate economic inequalities and contributes to the current paucity of information available from administrative and government databases (Smith 1992).

It can be argued that ATSIC has a clear mandate to press for the establishment of administrative procedures that would enable greater transparency of State expenditure on Aboriginal people and of the financial pathways associated with such expenditure. Some attempt has been made by ATSIC in this direction, but to date it has had minimal effect. Commonwealth departments need to ensure that sufficient and reliable information is obtained from recipient agencies, including State governments, to enable the Commonwealth to monitor the achievement of program goals, plan at the national level, and adequately account to Parliament. States do not provide all of the data sought and a lack of common definitions causes problems for comparability of some data. Smith (1992) notes that coordination by State and Commonwealth Governments of Aboriginal program and service delivery will not be possible without the availability of such data, nor will regional and local level financial planning proceed effectively.

Greater transparency is obviously required; however, the political realities of Australian federalism and political trade-offs between the Commonwealth and State governments mean that forcing this transparency is virtually impossible. Indeed, numerous Commonwealth audits have tried to force the issue in the past and have failed. Given the politics of federalism, it is not surprising that difficulties in tracking Aboriginal expenditure continue to exist. For example, State governments have expressed concern that through SPPs the Commonwealth is becoming increasingly involved in expenditure areas regarded as constitutionally belonging to the States. It has also been claimed that SPPs divert State and Territory priorities into areas of Commonwealth priority, cause overlap between Commonwealth and State-Territory functions and give rise to administrative duplication (Smith 1992).

**ATSIC Office of Evaluation and Audit**

ATSIC, while subject to audits undertaken by the office of the Auditor-General, is also subject to its own internal auditing structure. ATSIC is the only independent statutory authority/Commonwealth Government department that has its own Office of Evaluation and Audit (OEA), established under s.75 of the ATSIC Act 1989. Section 76 provides for the evaluation and audit of the Commission itself, Aboriginal Hostels Ltd., the Aboriginal and Torres Strait Islander Commercial Development Corporation and the Torres Strait Regional Authority. Particular aspects of these bodies can also be evaluated and audited, as well as the operations of Regional Councils. Section 78 provides that the Director of Evaluation and Audit has the authority to evaluate and audit every program that is conducted or funded under the Aboriginal and Torres Strait Islander Commission Act and the operations of every office of the Commission, at least once every three years.

The role of the OEA is to provide financial accountability to Parliament. The office is headed by a statutory ministerially-appointed Director (following consultation with the Board of Commissioners). The Director takes instructions from the Minister, not from the ATSIC Board, but is required to report in writing to both. OEA staff are ATSIC staff. Audit oversight includes Regional Councils. It has been noted (see for example Dillon 1992; Smith 1993b; Sanders 1993a. 1993b) that ‘every stage in the devolution of powers to ATSIC’s Aboriginal arm has been met by increased requirements for public accountability measures’ (Smith 1996: 27).

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10 It is not the purpose of this paper to provide detail on the specific evaluations and audits that have been undertaken. See ATSIC 1997: 216 for further detail.
One of the outputs of the OEA is the portfolio evaluation plan, which the Minister is required to submit to the Minister of Finance annually. The evaluation strategy requires that review and evaluation of programs with significant policy or resource implications be identified in the plan and undertaken. The evaluations concentrate on the outcomes from programs and administrative functions. They are comprised of impact evaluations (primarily concerned with outcomes and whether the program is appropriate to the needs of Aboriginal people), grant management evaluations of the Commission’s grant activities (examining procedural issues which have an impact across all programs), and efficiency and effectiveness reviews (which focus on policies, procedures and outcomes of support functions).

The internal audit program complements the evaluation program through examining the processes and efficiency of internal operations. It focuses on key program and administrative functions and information technology functions and systems. Audits completed in 1996-97 included operations audits of the Torres Strait Regional Authority and ATSIC State and Regional offices. Focused audits of major programs were undertaken, as were functional audits of administrative areas of the Commission. In addition to these functions, the OEA also conducts special evaluations and audits at the request of the Minister or the Commission.

**Between Two Worlds: Aboriginal and Mainstream Accountability**

There are two accountability foci in the management of Aboriginal affairs, mechanisms of accountability external to Aboriginal communities (primarily concerning the financial accountability of public monies to the government) and those internal to Aboriginal communities themselves.

**Mainstream Accountability and ATSIC**

Crucial to the issue of accountability is the attitude reportedly taken by the Coalition Government to ATSIC shortly after the 1996 election. The first Cabinet meeting of the Howard Government discussed ATSIC and the need to bring it under tighter Cabinet control and to focus on Aboriginal accountability for public sector monies. The Coalition announced shortly thereafter the appointment of a Special Auditor to examine the financial documentation of ATSIC-funded Aboriginal organisations. Gatjil Djerrkrua notes that this appointment, symptomatic of the strained relations between the Commission and Government, was to determine whether or not the organisations were ‘fit and proper’ bodies to receive public funds (ATSIC 1997: 25). Mick Dodson, Chairman of the Aboriginal Social Justice Commission, was far more direct in his assessment of this appointment.

The sub-text was that black babies are dying in 1997 because black bureaucrats are squandering taxpayers’ money meant for health services to buy four wheel drives and take off on overseas jaunts. The implication is that if Aboriginal peoples could be made accountable, the perennial problems of Aboriginal affairs would be solved. Rarely is the link made to the mainstream government departments which are, in fact, responsible for the health and welfare of all Australians (Aboriginal and Torres Strait Islander Social Justice Commission 1997: 42).

The audit was later found by the Federal Court to be unconstitutional as the Minister did not have the authority to direct the Commission in this way. The findings, however, are worth noting.

The Special Auditor reviewed 1 122 ATSIC-funded organisations and cleared ninety-five per cent of them for funding. In those instances where non-compliance was an issue, it mainly took the form of minor technical breaches such as the late submission of financial and management reports. The Social Justice Commissioner noted that ‘in comparison, a 1997 survey of company fraud showed that roughly half the 490 large Australian companies surveyed had experienced significant fraud in the last two years' (Aboriginal and Torres Strait Islander Social Justice Commission 1997: 42).

ATSIC used this process to its advantage and undertook to enhance grant administration reform, which was already underway prior to the appointment of the Special Auditor. What ATSIC did not do was to extend the scope of the audits to question why problems with grant administration might occur in the first place. Nor was any analysis linking organisational performance with outcomes carried out. The urgency of reform is clear, however, when local level community reality is brought into the picture. The Social justice Commissioner points out the situation faced by the sole Aboriginal organisation or worker, who are expected to meet the

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11 Smith (1996b) points out that the Coalition Government has ignored the lack of accountability of the State Governments in the area of Aboriginal services.
needs of an entire community, because the responsible mainstream service providers do not. It is the experience of the author that when situations like this occur, organisations often collapse under the strain owing to issues of capacity, decision-making, and/or leadership. Further, individuals themselves often collapse because they burn out for reasons ranging from exhaustion to significant family pressures. Commissioner Dodson observes that

it is these under-funded, over-burdened, and ambiguously constituted organisations that are held up as examples of self-determination. So when they find themselves operating in an untenable situation or fail’ to deliver what all Australian governments put together have failed to achieve, we are told that self-determination is the wrong approach (Aboriginal and Torres Strait Islander Social Justice Commission 1997:141).

Regional Councils, local community organisations and other Aboriginal organisations are faced with ensuring that they are responsible in the expenditure of public sector monies. Often, this is done with little or no training – particularly in the case of local community organisations. It is extremely difficult, if not virtually impossible, for small organisations to cover every aspect of public sector accountability – from the filing of progress reports or progress letters to eventual acquittal – without some instruction on roles, responsibilities and legal standing. Nevertheless, it appears to remain the policy of both levels of government to provide funds with little consideration given to the provision of accompanying training regarding bookkeeping, report writing, and acquittal. This extends into the area of financial auditing as well. This criticism can also be levied at ATSIC itself (see Holden 1994).

Another difficulty arises in the application of mainstream accounting and audit culture. There exists a prevalent view that individuals conducting A audits on behalf of government are completely objective, examine records with total dispassion and attempt to eliminate non-financial elements from consideration as weaknesses are reported and recommendations provided (see Aboriginal and Torres Strait Islander Social Justice Commission 1997; McNamee and McNamee 1995). Audits that are to determine financial compliance (such as that conducted by the Special Auditor) require specific, structured, quantitative approaches to evaluation in order to ensure corporate governance requirements (Dittenhoffer 1988). This often prevents an auditor from taking alternative views of the operation or management of systems into account.

A similar point is noted by Dodson in that incorporated Aboriginal organisations often find themselves constrained by the policy and funding guidelines set by government departments and ministries. Those who set the guidelines have little understanding of the context in which Aboriginal communities operate (Aboriginal and Torres Strait Islander Social Justice Commission 1997). As such, culture and worldview impact substantially on the clear notions of ‘audit’ that are found within the mainstream management of public sector monies.

**Aboriginal Accountability**

Aboriginal organisations often represent points of contact between the mainstream and Aboriginal cultural and political systems. As a result of their location somewhere on the continuum of government department and Aboriginal community, these organisations find themselves in the discordant position of attempting to ‘negotiate between differing political positions and cultural imperatives while still maintaining legitimacy in both’ (Martin and Finlayson 1996: 2).

Aboriginal bodies are construed by the mainstream bureaucratic system as representing their communities and regions. While this is true from a mainstream liberal-democratic perspective, the members of these bodies are also embedded in kin relations, have attachments to particular geographic areas and to other traditionally-embedded groupings, and are associated with particular community organisations and individuals. Aboriginal bodies are, therefore, ‘embedded within specific matrices of rights, obligations, and allegiances which are crucial constitutive elements of the Aboriginal social and political realm’ (Martin and Finlayson 1996: 6). This is further complicated by issues of localism: it is very difficult to separate the economic realm of accountability from the social/political realms as ‘accountability itself is often assessed...against local priorities and values, rather than the broader ones typically emphasised by bureaucracies’ (Martin and Finlayson 1996: 6). This often leads to a perceived lack of Aboriginal accountability by mainstream bureaucrats and politicians, whereas in fact Aboriginal organisations view their role as providing culturally appropriate services to their clients according to local protocols.

Government departments providing funding, including ATSIC, emphasise accountability and management styles that conform to mainstream’s bureaucratic systems and cultures. The sole or dominant emphasis is on Aboriginal-external accountability. Little consideration is given to differences in cultural perception of financial
accountability and to the unique circumstances of each community and each community organisation. Dodson (Aboriginal and Torres Strait Islander Social Justice Commission 1997: 40) notes that (t)he implicit demand from government is that ‘Aboriginal people change their ways’. As such:

Aboriginal organisations must operate in the ambiguous and fraught zone between the two political and cultural systems, the Aboriginal one and that of the wider society...fundamental questions...of accountability are constantly contested in terms of the sometimes, incommensurate principles of each of the two political domains (Martin and Finlayson 1996: 10).

Martin and Finalyson (1996) suggest that consideration needs to be given to Aboriginal forms of accountability whereby accountability is assessed against local priorities and values. Both Aboriginal and mainstream systems need to be satisfied as one without the other is not acceptable politically or practically. Thus, it is necessary to arrive at accountability mechanisms that are relevant to Aboriginal culture but satisfy the requirements of public sector funding. Martin and Finlayson (1996) have put forward preliminary suggestions for the development and implementation of Aboriginal ‘internal’ organisational and structural accountability mechanisms that would go toward achieving a balance between the Aboriginal and mainstream sectors. One suggested option is to build ‘requirements for more sophisticated internal accountability into organisations constitutions, and into legislation such as the Aboriginal Councils and Associations Act’ (Martin and Finlayson 1996: 23). This option may assist those communities that operate under the Act such as the Queensland community of Woorabinda. However my research is not demonstrating support for this option. The perception among Aboriginal people canvassed on the issue is that it is a mainstream solution promoting the incorporation of more stringent mainstream accountability requirements. Another option put forward by Martin and Finlayson is altering the role of ATSIC to ensure that requirements for both internal and financial accountability are part of its procedure. They do not, however, elaborate on what this would involve.

While Martin and Finlayson attempt to provide examples of uniquely Aboriginal mechanisms, the options presented appear to reflect more mainstream mechanisms than they do Aboriginal mechanisms. Written constitutions and codified law are not Aboriginal mechanisms and, while it is worth noting that Aboriginal organisations must somehow exhibit internal accountability, the adaptation of non-Aboriginal concepts to the Aboriginal environment may not be sufficient to provide this accountability.

**Self-Determination and Accountability**

If the term self-determination is defined from an international law perspective of sovereignty, self-determination is not only unachievable within the current legal and constitutional system, but is ultimately irreconcilable with notions of public accountability to a larger nation state. If, as Sanders (1993b) notes, it means inclusion in important decision-making processes within the existing nation state, then self-determination may indeed be possible. Whether ATSIC is perceived of as being successful in this area depends on how these central terms are defined by Commissioners, Regional Councillors, community residents, and Commonwealth politicians and bureaucrats and whether an accommodation between differences in definition is achievable at all. The extent to which Aboriginal-administered bureaucracies equate with Aboriginal-controlled bureaucracies has been questioned by one Aboriginal leader who asked ‘Are we talking about Aboriginal-managed organisations or “managed Aborigines”?’ (Tonkinson and Howard 1990: 72).

What are required are concrete Aboriginal concepts and mechanisms of internal accountability implemented at the community and regional levels.

The research done in this area to date is extremely limited. however, mechanisms that can be outlined at a conceptual level. There are, however, mechanisms that can be outlined at a conceptual level.

**Concepts of Accountability**

My research is demonstrating that Aboriginal managers accept that mainstream concepts of accounting, such as sound fiscal management based on accrual accounting, are becoming more and more a reality. These managers also point out, however, that nothing exists in the way of similar culturally-based Aboriginal financial accounting practices because there was no necessity for it in traditional culture. As long as it was never the case that Aboriginal people held resources that flowed from outside the group in trust, accounting reflective of mainstream financial practice was never necessary.
Aboriginal internal accountability that is integrated with mainstream accountability is found in the case of Aboriginal community members meeting to discuss expenditure of mainstream program funds. Many Aboriginal Councils administer large social program budgets. They have control over their own health care, education, economic development, and social welfare programs and services. Community members have objectives they need to meet in order to achieve measures of social justice. The political leadership is required to report to the membership on programs, on service provision, and external responsibilities to governments such as audits and grant acquittals. As the political leadership is accountable to the Aboriginal people, as well as to the government in terms of accounting and audit practices, service provision and external accountability are generally interpreted in ways community members can better understand. This is not done in the language of financial statements and audit reports, "but in manner whereby concepts of clarity, honour and trust may become very important.

Often community residents are not concerned with the balance sheet. They are concerned with the manner in which their leaderships and organisations fulfill their kin-based and other non-financial obligations. Theoretically this can be referred to as symbolic capital (see Bourdieu 1993) 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 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 motor 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.

There is wide recognition that the conventional, financially-based approach to Aboriginal accountability taken by Australian governments is not meeting the goals of effective public sector service delivery in Aboriginal communities. Added to this is the relationship of accountability to the politics of self-determination. A case can be made for a shift from the Government's emphasis on grant acquittals to an emphasis on outcomes that are relevant to the Aboriginal community and achieve the goals of program and service delivery. The current system of mainstream acquittals processes and audit functions is not adequate in that it does not address outcomes but only the dispersal of inputs.

There is a critical need for further research on ways of addressing the conflict between mainstream and Aboriginal concepts of accountability. While it is possible to conceptualise Aboriginal accountability based on past and current research, there exists little in the way of substantive evidence of it operation in practice. Once this is obtained, it may be possible to develop strategies which do not fit into preexisting bureaucratic frames, are not stifled by the singular application of mainstream accountability, and meet the requirements of both Aboriginal service providers and funding agencies.

**Conclusion: Straddling Two Worlds**

This paper has noted a series of issues that have a significant impact on ATSIC as an institution delivering programs, services and funding to Aboriginal communities and organisations, and ATSIC as a bureaucratic system. Issues include the rather unsuccessful attempt to combine representative and bureaucratic structures and functions within or organisation, a cumbersome program structure accompanied by funding mechanisms and processes which lack clarity and certainty, ambiguities in the structure and functions of ATSIC Regional Councils, fiscal federalism and intergovernmental fiscal accountability weaknesses, and inconsistencies and incoherence between Aboriginal and mainstream accountability.

The degree to which ATSIC is seen as an extension of Aboriginal political institutions by Aboriginal people themselves is critical to the development of policy and programs that are effective and efficient. The most critical issue is that of ATSIC as both an institution of self determination and a bureaucratic agency that straddles two worlds – Aboriginal and non-Aboriginal. There are two different sets of values in operation, two different worldviews. This has substantial implications for ATSIC and its claim to represent self-determination. Is it possible to straddle two worlds, or must it be dominated by one?

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Coombs (1994) notes that the most debilitating element in the present organisational structures for Aboriginal participation in government processes is 'the misleading presentation of ATSIC as an Aboriginal organisation' (1994: 183). It continues to be viewed by many in Aboriginal communities, as well as government officials, as the instrument of the Commonwealth government. Further, components of ATSIC may be misperceived as having influence they do not possess. For example, the Social Justice Commissioner has made the comment that while Regional Councils are often seen as the bodies which coordinate the various agencies involved in policy development and service delivery, in fact they have little to no influence over the various arms of either federal or state governments. Indeed, they often have no knowledge of what government is doing. The control over fiscal resources is one aspect of self-determination that is frequently noted in ATSIC reports as crucial to its status as a self-determining body. In reality, however, ATSIC is financially accountable to the Commonwealth Parliament through the Aboriginal Affairs Minister and not to the people it represents. It is also evident that parliamentarians demand extraordinary degrees of accountability from ATSIC that are not required of other agencies. Further, the Minister of Aboriginal Affairs has tremendous authority when it comes to removing programs from the policy responsibilities of the Commission. For example once the quarantines occurred in the 1996-97 budget, key programs were no longer subject to policy development by the Commission.

In order to address the question of whether ATSIC, can truly be a body representing self-determination through the accommodation of both Aboriginal and non-Aboriginal worlds, a number of areas require further research.

**Accountability**

It is necessary to examine other forms of accountability based on Aboriginal culture. In doing so, it is critical that issues of cultural diversity among Aboriginal peoples themselves are not overlooked. Cultural diversity is an area that is having an impact on policy formulation, program funding and corporate direction (see Smith 1996). As such, it is going to have a significant impact on the form and function of Aboriginal accountability mechanisms.

The following questions also need to be addressed. Is it possible to develop effective mechanisms of Aboriginal accountability that are based on Aboriginal culture, rather than an adaptation of mainstream accountability mechanisms? Is it more efficient to blend the systems of mainstream and Aboriginal accountability? Can they be blended? For example, in the case of housing starts the funding guidelines are very strict. Aboriginal councils are accountable to the government for the monies received. The leadership is also accountable, however, to its constituency. The emphasis of accountability in the latter case may not be related to finances, but to obligations based on culture. These two forms of accountability must therefore be balanced in some way, if both mainstream and Aboriginal accountability is to be achieved. Research indicates that it may, indeed, be possible to achieve such a balance.

It is necessary to give some consideration to the development of appropriate theoretical constructs that could be used when examining issues of accountability. There exists a paucity of appropriate theory that can be used as an explanatory tool. Martin and Finlayson's preliminary research (1996) demonstrates that a policy focus on specific mechanisms by which internal accountability can be achieved and enhanced can assist in the realisation both self-determination and public accountability. This may then provide a way forward in what is often a sterile debate over whether to emphasise one policy goal at the expense of another.

**Role of ATSIC**

A fundamental question must be addressed: is ATSIC functionally an independent statutory authority or a ministerial department, or does it combine elements of both? What are the differences in perception held at the local, regional and national levels and at the political and bureaucratic levels? The weight of evidence currently suggests that ATSIC is more a ministerial department than a statutory authority.

A multiplicity of programs is offered by ATSIC, in addition to those through other government departments and levels of government. This causes tremendous problems in terms of duplication, cost inefficiencies, and poor accountability. What are the funding alternatives that could be implemented? Are there any alternatives to the current structure that are realistic? What is the status of bilateral federal – state negotiations aimed at improving service coordination and identification of funding arrangements in Aboriginal affairs, and how could those negotiations be advanced?

**Funding**
The issue of horizontal equalisation of the distribution of program funds to Regional Councils needs to be further examined and discussed in relation to both the political and bureaucratic levels. The objectives of fiscal equalization and accountability realities between the Commonwealth and State levels of government, must be examined with a view to their consideration to financial management, socioeconomic indicators, and the political astuteness of Regional Councils regarding operations and expenditure. This examination should include linkages and outcomes between the ATSIC Board of Directors and the Regional Councils.

**Regional Councils**

The assessment criteria for Regional Plans need to be examined and/or further developed. In the process a number of questions need to be answered. How are the allocations between councils determined? How closely do the allocations made by the Commissioners reflect Regional Council planning priorities? How is regional disparity impacting on the, budget allocation and decision making processes undertaken by individual ATSIC Commissioners and what are the politics surrounding these processes? How are these decisions made in the apparent absence of clear policy? A significant component of decision-making surrounding regional funding allocations would appear to be influenced by Aboriginal politics, but what exactly is the nature of the political activity involved and what are its consequences?

Research is required on the nature and composition of inter-regional interactions and regional-community interactions. This includes political interactions and decision-making between regions and between regions and communities. Further, the lack of clear policy directives for the operation of Regional Councils needs to be remedied. The apparent absence of coordinated and/or discrete funding policies at the regional and national levels is a critical component in the success or failure of ATSIC program and service delivery at the regional and local levels.

**Federalism**

The realities and impacts of executive federalism on ATSIC policy need to be examined, as well as the impacts of federalism generally on budgets and program structures. How does federalism impact on the formation of the policy agenda and policy options and on the implementation of new policies? What are the impacts on Aboriginal expenditure and what are the subsequent impacts on transparency and accountability? It has also been noted that government officials – both federal and state – are driven by different imperatives depending upon the level of government and the location of the individual official within that government. What is the nature of the bureaucratic politics which results and what is their impact on policies affecting Aboriginal self-determination?

It is hoped that further research undertaken as part of the CAPSM project will provide some answers to these questions.
References

Aboriginal and Torres Strait Islander Social justice Commission (1997), *Aboriginal and Torres Strait Islander Social justice Commissioner Fifth Report* (Sydney: J.S. McMillan Printing Group)

ATSIC (Aboriginal and Torres Strait Islander Commission) (1993), *The ATSIC Protocol* (Canberra: Australian Government Publishing Service)


Auditor General of Australia (1991), *Specific Purpose Payments to and through the States and Northern Territory, Audit Report No. 18* (Canberra: Australian National Audit Office)


Auditor General of Australia (1995), *Specific Purpose Payments to and through the States and Territories, Audit Report No 21* (Canberra: Australian National Audit Office)


Dittenhofer, M.A. (1988), 'The Need for Behaviouralism in Internal Auditing', *Managerial Auditing journal* 3(2): 4-7


House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (1992), *Mainly Urban* (Canberra: Australian Government Publishing Service)


Smith, B. (1996a), *Commonwealth/State Relations: Current Issues or Delivery of ATSIC Programs and Services*, Research Discussion Paper No. 5 (Canberra: Australian Institute of Aboriginal and Torres Strait Islander Studies)
Smith, B. (1996b), *Commonwealth/State Relations: Some Historical Background*, Research Discussion Paper No. 6 (Canberra: Australian Institute of Aboriginal and Torres Strait Islander Studies)


Sullivan, P. (1996), *Shooting the Banker* (Darwin: North Australia Research Unit)


Wolfe, J. (1993a), *Lessons in Regional Planning and Development From Canada and Australia* (Darwin: North Australian Research Unit)