

The Secretary
Senate Select Committee on the
Administration of Indigenous Affairs
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Submission from:
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As the first and only elected Chairman of the Aboriginal and Torres Strait Islander Commission (ATSIC) I welcome the opportunity to contribute to the Senate Select Committee on the Administration of Indigenous Affairs.

Upon election as the Chair of ATSIC I felt it was important for the Commission not to exhibit an allegiance to either of the main political parties because I was wanting to establish with these elections an independent Indigenous controlled organisation which could deliver the aspirations of its peoples. The adoption of this principle assisted us in becoming very effective advocates for *Indigenous peoples*.

One of the main perceived faults of the original ATSIC structure was that the same body was responsible for political action as well as program funding and with an administration attached to government.

Indeed this was the supposed reason we were given by Government, that Aboriginal community politics, national politics and our international advocacy were impacting negatively on the effectiveness of our delivery of programs and there must be a 'separation of powers' to remedy this situation.

The government established the agency, Aboriginal & Torres Strait Islander Services as a response to these concerns.

But in setting up ATSIS the government also set about the dismantling of the political voice of Indigenous peoples (ATSIC).

One year further on the government dismantled ATSIS thereby taking away ATSIC's remaining capacity to influence programs affecting Indigenous peoples.

All of the principles of self management and self determination and the subsequent Rights and benefits arising from the capacity to make free and informed choices for our families and communities have been taken from us.

We are now back to the failed policies of the 1960's.

Following the establishment of ATSIS, the campaign to denigrate ATSIC in the public eye moved up a notch. We had a constant barrage of government ministers and members, opposition members, shock jocks, print editorials and others, some of whom may have benefited from ATSIC's existence, all building a picture of ATSIC failing its constituents – Indigenous people.

I categorically repudiate this assertion. No one has been able to successfully point out any serious failings of ATSIC which could warrant its dismantling.

The principles upon which ATSIC was established (as contained in the preamble to the ATSIC Act 1989) remain as relevant and important today as in 1989.

Where we are at today is indeed a sad reflection on the commitment to these principles by the elected representatives in the national parliament.

I meet many people who have been long time supporters of Indigenous Rights, who express their profound disappointment and sadness with the campaign against ATSIC.

Since 1996 I have been an elected representative of my people on the ATSIC Board of Commissioners. I know that my colleagues on the Board and on the Regional Councils have always tried to make ATSIC responsive to meeting our peoples needs as far as possible, given our responsibilities and our budgetary constraints.

ATSIC has always welcomed rational, reasoned and constructive criticism and where appropriate we have responded to concerns.

However the criticisms that have been levelled at ATSIC and have been used to not only destroy ATSIC but also to denigrate Indigenous interests, have been based on lies and false perceptions.

If there is corruption within any part of ATSIC let charges be laid. Anyone found guilty needs to be convicted and then punished for corruption.

But our critics have been applying double standards. Calls for punishment follow allegations. It seems for Indigenous leaders the 'rule of the law' does not apply. Guilty without charges and targeted for punishment. Further this hunger for punishment is then directed at ATSIC, with calls for it to be ultimately dismantled.

Compare the response to some of the high profile cases where convictions have been obtained against bank officers and corporate leaders. We do not see calls for these banks or corporations to be dismantled nor are their shareholders or members denigrated. Why then does this happen with Indigenous peoples' structures?

It is mainstream services which have failed Indigenous people for decades. Two examples we can examine are health and education, which are the responsibility of the Commonwealth and States respectively. ATSIC has no funding capacity or responsibility in either area. The record of atrocious service delivery in health and education can be found in the cemeteries and the dole queues around the country.

Where do you read of or hear criticism of the continuing desertion of responsibility by government in these two important areas?

I find it the height of hypocrisy when parliamentarians and media commentators can falsely blame ATSIC for the horrendous failures in health, education and other areas not its responsibility, then actively campaign to have ATSIC destroyed on these false perceptions.

There is no acknowledgement of the excellent programs that ATSIC has developed and funds community organisations to deliver.

These programs such as the Community Housing and Infrastructure Program (CHIP), Community Development and Employment Program (CDEP), Home Loans, Broadcasting, Art and Culture, Repatriation of Aboriginal Remains, have received international recognition and acclaim. Tens of thousands of Indigenous people have been assisted by these services funded by ATSIC.

Remember that ATSIC is a subsidiary funding body. It is not meant to be the funding body of first recourse. It tries desperately to plug the funding holes not been addressed by Federal, State and Territory governments.

ATSIC was keen to break the impasse with government over their failure to provide a decent level of service to Indigenous people. We initiated a process of developing Memorandum of Understanding with each State and Territory government which would form the framework for negotiating and assisting improved outcomes from government.

Under my Chairmanship ATSIC signed MOU's with all State and Territory governments. We learnt that it is one thing to have these MOU's, it is quite another matter to have the capacity to make government adhere to the particulars.

Our experience with governments is that we are considered and treated as bit players because there is no mechanism which gives us the authority and capacity to follow through with ensuring that governments deliver to Indigenous people.

ATSIC understands well the need for all levels of government to work with the Indigenous community in a partnership arrangement. However in order for Indigenous people to engage with capacity and authority, the Australian Constitution needs to have enabling amendments passed to enshrine our Rights.

It is a measure of how far we have not come that ATSIC has had to take our campaigns for justice and Rights into the international arena because Australian governments refuse to acknowledge our Rights.

There is no doubt that we have been most effective in the international arena. Our communities' struggles for justice are being recognised and supported within the United Nations and elsewhere.

In response to our advocacy, the Government wants to close us down when they get a 'Show Cause' from the CERD committee and when the UNWGIP endorses our call for Indigenous ownership of the mineral/gas/oil resources on our lands.

We the Indigenous peoples of this country will continue to use whatever avenues we can to pursue our Rights agenda. Whilst there is no doubt we are in the middle of a well orchestrated campaign against Indigenous interests, I believe that delivering justice to my people will benefit the fabric of the whole country.

I believe this means –

- a.) Having a nationally elected Indigenous political voice, with the capacity to research, develop policy, engage as true partners with governments, advocate locally, nationally and internationally on matters of importance to Indigenous peoples.

Having capacity entails having a budget appropriate to the task, controlled by the national body.

This body also needs to have an administrative arm, independent of government and accountable to itself.

This national Indigenous representative body must be independent of program funding and service delivery.

Feeding into this national body and determining its makeup is a network of regional representative groupings. We need to recognise and acknowledge the strength to be found in accommodating regional variation within the national structure.

Wherever the authority of the Indigenous community is most respected, we must transfer that respect and authority to the national body.

Whilst there is debate about Indigenous Affairs there is the opportunity to utilise the existing ATSIC Commissioners to investigate a new model

of political representation. They have the authority to consult and represent Indigenous people around the country in designing a new form of governance.

- b.) Separate to the need to have political representation are the urgent issues to do with serious deficits in service delivery and outcomes to Indigenous people.

In the interim we wish to engage a group of 'specialist' Regional Councillors to explore how the COAG pilot sites in service delivery are operating and how to progress this model, whilst ensuring that the principles of self-determination and self-management are central to its structure. How this model is delivered on the ground is to be determined by individual communities based on these principles.

I further invite the Senate Select Committee on the Administration of Indigenous Affairs to attend a functional Aboriginal community, my own community at Framlingham where I can further explore these ideas within the Senate Select Committee.

A visit by the Committee would also provide an opportunity for rural Aboriginal communities to present views and issues to the Committee.

Yours sincerely

Geoff Clark
Chairman
ATSIC