STRANGE BEDFELLOWS: WHOLE-OF-GOVERNMENT POLICY AND SHARED RESPONSIBILITY AGREEMENTS, THE IMPLICATIONS FOR REGIONAL GOVERNANCE

PATRICK SULLIVAN[*]

I Introduction

Susan Wright and Chris Shore, in their collection on the Anthropology of Policy, tell us that the anthropological analysis of policy formulation and implementation offers a way of examining a crucial element of contemporary culture, linking the local to the global.[1] This is true of the recent implementation of 'whole-of-government' policy in Indigenous affairs in Australia: it is global in origin and local in impact. Whole-of-government policy for mediating the relationship between the state and its citizens had been trialled internationally before being introduced to Australia. It can be seen both as a global movement towards corporatising the civil service on the model of efficient commercial enterprises and a response to citizen dissatisfaction with simple bureaucratic responses to complex, labile and interrelated problems. When Peter Shergold, Secretary of the Department of Prime Minister and Cabinet, introduced the Public Service Management Advisory Committee document *Connecting Government* he met two aims.[2] The first furthered the engagement of the Australian Public Service with these international trends, though this has been slow to take hold. Shergold's second purpose was to announce the implementation of whole-of-government administration uniquely for Indigenous affairs in Australia.[3]

This paper reviews the development of that policy as it stood about eighteen months later. Changes in Indigenous affairs policy, static for so long

[1] Chris Shore and Susan Wright, 'Policy: A New Field of Anthropology' in Chris Shore and Susan Wright (eds), *Anthropology of Policy: Critical Perspectives on Governance and Power* (1997) 3, 13.

[2] Management Advisory Committee (Australian Government), *Working Together: Principles and Practices to Guide the Australian Public Service* (2005) at <http://www.apsc.gov.au/mac/workingguide.htm>.

[3] Peter Shergold, 'Connecting Government: Whole-of-Government Responses to Australia's Priority Challenges' (Speech to launch the Management Advisory Committee Report No 4, 20 April 2004) at <http://www.pmc.gov.au/speeches/shergold/connecting_government_2004-04-20.cfm>.

under the Howard government, now occur rapidly, perhaps reflecting a lack of internal coherence or commitment on the part of the Commonwealth. The paper was written with cautious optimism that some aspects of the new policy would prove productive. That they haven't must be the subject of a new discussion rather than an amendment to what follows. The purpose of this paper is still to analyse the policy terrain at a time of radical overhaul and to point out the pitfalls and odd misalignments of attempting to meet political objectives with Shared Responsibility Agreements roughly bolted on to development objectives through encouraging whole-of-government service delivery.

The Connecting Government report came late enough to be able to assess international experience and was at best ambivalent about the value of the approach in all areas of public administration. Some analysts had already taken the first blush of enthusiasm off it by concluding that there are still many sectors of public activity that deliver more effectively in the classic command and control, line management, mode. Others had voiced concerns about the potential for undermining expected reporting standards, since lines of responsibility and control over governmental resources become blurred or confused when inter-agency cooperation is enforced.[4] This becomes particularly problematic when whole-of-government embraces the private sector.[5] Other commentators have added to this the potential for normal checks and balances on the exercise of public power to be overridden with direct political interference in the joint task-forces or interdepartmental committees that are charged with fast-track policy coordination and implementation.[6] These concerns raise the question of how to do whole-of-government, how to foster coordination while retaining authority and accountability. The Connecting Government report is not particularly useful as a tool-kit for implementing whole-of-government approaches, nor was it intended to be. Indeed, there is little in the way of guidance for public servants on new management techniques for integrated service delivery. The Management Advisory Committee's document *Working Together* is brief and concerns itself only with existing features of the bureaucratic landscape, interdepartmental committees and joint task forces.[7] These Shergold rightly refers to as 'necessary but insufficient constituents of achieving a whole-of-government approach'.[8] The Australian National Audit Office (ANAO) has also produced a

---

[4] Peter Wilkins, 'Accountability and Joined-up Government' (2002) 61 *Australian Journal of Public Administration* 114, 117–18.

[5] Pat Barrett, *Governance and Joined-up Government – Some Issues and Early Successes* (2000) Australian National Audit Office <http://www.anao.gov.au/website.nsf/publications/ba41a52a3dd5f25b4a256cc900254178 > at 30 October 2006.

[6] See, eg, Dennis Kavanagh and David Richards, 'Departmentalism and Joined-up Government: Back to the Future?' (2001) 54 *Parliamentary Affairs* 1, 13.

[7] Management Advisory Committee, above n 3.

[8] Shergold, above n 4.

practice document, again very brief. This is concerned with maintaining good governance procedures for accountability purposes and outlines proposed structural arrangements for a variety of cooperative working arrangements which effectively reproduce departmental or corporate entities, though these may be temporary.[9] The Office of Indigenous Policy Coordination (OIPC) which is now charged with implementing whole-of-government cooperation in Indigenous affairs has little practical information to rely upon in devising new administrative arrangements. It is likely, however, that there are divergent views within the organisation and it is still too early to tell whether these will result in bureaucratic inertia and a reinvention of the new policy as nothing but 'business as usual'. As Ling observes for the UK:

> … developing new skills in goal-setting, accountability and networking would, most are agreed, require a new type of leadership and a new culture of learning and working … Skills and learning therefore appear to be very important in managing the tensions that may arise in goal-setting, accountability and networking. Given that this also implies different ways of working and of delivering services, it is not surprising that it has been faced with some professional and bureaucratic resistance.[10]

This paper first aims to describe the new arrangements and predict some of the potential outcomes. It goes on to discuss the Shared Responsibility Agreements (SRAs) and Regional Partnership Agreements (RPAs) that are also part of the new policy. The SRAs are seen as poorly conceived and impossible to implement in the simplicity with which they are presented to the public, while RPAs require precisely the whole-of-government service delivery environment promised but far from delivered. Secondly, it suggests that government bureaucracy, and indeed the political environment it functions within, itself requires analysis and renewal for the proposed whole-of-government approach to be effectively implemented to the benefit of Indigenous people.

II Whole-of-Government Origins and Antecedents

Shore and Wright are correct that analysis of policy offers a way into contemporary culture. The new policy occurred in a public environment of despair at, even hostility to, the perceived failure of Indigenous communities, particularly in remote areas, despite decades of self-management and apparently enlightened funding and governance regimes. This despair had been precipitated by a mounting tendency for Indigenous representatives themselves

---

[9] Australian National Audit Office (ANAO), 'Cross-Agency Governance' (Guidance Paper No 7, ANAO, 2003), available at:
<http://www.anao.gov.au/website.nsf/0/39e5ae748f6f9749ca25706f000689fc/$file/cross-agency%20guidance%20paper%207.pdf >.
[10] Tom Ling, 'Delivering Joined-up Government in the UK: Dimensions, Issues and Problems' (2002) 80 *Public Administration* 615, 638.

to speak out about the physical and social malaise affecting their people.[11] Secondly, the announcement came at a time when the Australian Government felt sufficiently entrenched, and had dealt convincingly with many of the issues that it considered more central to its concerns, to be able to turn attention to a radical new approach in Indigenous affairs. Thirdly, the conditions of intervention presented themselves when the rump of the Aboriginal and Torres Strait Islander Commission (ATSIC), recently riven by the introduction of Aboriginal and Torres Strait Islander Services (ATSIS), showed itself to be incapable of renewing the rhetoric of rights and entitlement for a more pragmatic age and, during an election campaign, the leader of the opposition reiterated his intention to abolish it. When the Prime Minister pre-empted this by dissolving ATSIC in advance of the election it became imperative that the government clean up the stagnation of policy with a new direction, abandoning its agnostic stance which previously had been capable only of declaring what it disagreed with in the current arrangements. Whole-of-government, still undergoing assessment at several trial sites established by the Council of Australian Governments (COAG), stepped into the breach. It was, however, a whole-of-government policy carrying considerable political baggage. It tended to reject all that had gone before as misguided, politically suspect, wasteful and corrupt,[12] thus alienating those development activists, Indigenous and non-Indigenous, who had devoted several decades of their lives to Indigenous advancement, and discrediting their collective knowledge. This presents the bureaucracy with the danger of simply reinventing the past in new guise, ignorant of the painful lessons learned by those who currently staff the Indigenous community sector.[13] The policy was also from the start linked to a parallel, but not conceptually related, commitment to mutual responsibility in the delivery of social services. Thus weighed down, government officials took a running jump at one of the most complex areas of need affecting Australia with few, if any, conceptual tools about how to do the integrated service delivery they were charged with, nor indeed with any consistent and elaborated idea of what it means.

With these caveats in mind, it may still be said that introducing whole-of-government cooperation for Indigenous development is a significant opportunity for Indigenous people to break out of the quagmire of self-reproducing waste, dysfunction and unintended negative consequences that has characterised development approaches for two decades.[14] The initial stages of

---

[11] See, eg, Mick Dodson, 'Violence, Dysfunction, Aboriginality' (Speech delivered at the National Press Club, Canberra, 11 June 2003), <http://law.anu.edu.au/anuiia/dodson.pdf>.

[12] See, eg, Amanda Vanstone MP, 'Address to National Press Club' (Speech delivered at the National Press Club, Canberra, 23 February 2005),
<http://www.atsia.gov.au/media/former_minister/speeches/2005/23_02_2005_pressclub.aspx>.

[13] See, Tim Rowse, 'The Indigenous Sector' in Diane Austin-Broos and Gaynor Macdonald (eds), *Culture, Economy and Governance in Aboriginal Australia* (2005).

[14] See, Patrick Sullivan, 'The Generation of Cultural Trauma: What Are Anthropologists

establishing the new arrangements, which I will discuss below, also boded well for the future and indicated solid commitment to the policy, rather than window dressing. Here I take whole-of-government policy to mean: (1) vertically streamlining policy development, implementation, and monitoring, so that unnecessary intermediaries are removed, responses are faster, and all levels of government and the community sector are aligned in their aims and intentions; and (2) laterally encouraging coordination of activities across commonwealth, state and non-governmental sectoral boundaries, eliminating the bottle-necks that arise from dependence one upon the other, as well as eliminating duplication of responsibility and argumentation about where responsibility truly lies.

Following the establishment of OIPC within the Department of Immigration and Indigenous and Multicultural Affairs (DIMIA),[15] several important and innovative new functions have been instituted that promise to deal with longstanding complaints from Indigenous groups. For several decades, since the emancipation period of the late '70s and early '80s, Indigenous settlements and regions have been frustrated with government on a number of fronts. These can be listed:

- The number of government functionaries who come to consult them about development in a piece-meal way about their needs. This duplication of consultation is itself felt as oppressive.
- The inability of government to provide coordinated and well-planned development because any one intervention depends upon several others that lie within the gift of disparate agencies and jurisdictions. Thus houses may be provided without power or sealed roads, or more likely, will not be provided until there is agreement over provision of these, although they may not be a priority in the relevant agencies' planning.
- Bickering between the states and the commonwealth over responsibility and resources in a political environment where the states can neglect the services they guarantee to all other citizens, confident in the knowledge that the Commonwealth will wear the blame.
- The mis-match of skills to responsibilities so that NGOs have little structural power but effective grass-roots knowledge, while government officials are more responsive to internal administrative requirements than to the external effect of their efforts.[16]

For?' (1986) 1 *Australian Aboriginal Studies* 13; Peter Sutton, 'The Politics of Suffering: Indigenous Policy in Australia Since the 1970s' (2001) 11 *Anthropological Forum* 125; Ralph Folds, *Crossed Purposes: The Pintupi and Australia's Indigenous Policy* (2001).

[15] Since moved to the Department of Families, Community Services and Indigenous Affairs (FaCSIA) and partially absorbed within its existing structure.

[16] See, Patrick Sullivan, *All Free Man Now: Culture, Community and Politics in the Kimberley Region North Western Australia* (1996) 43–69.

Many recent innovations are set to address these problems.

III Progress in Structural Initiatives

Underpinning the new arrangements, and signalling the government's bona fides, are two monitoring groups established at the most senior levels of functional power in the Commonwealth government. A Ministerial Task Force, consisting of all government Ministers whose portfolios include an Indigenous element, has been established to 'provide high-level direction to Australian Government policy development, as well as coordination and flexible resource allocation'(OIPC 2005).[17] While this only involves the Commonwealth, the parallel process established by COAG involves State Ministers in the Ministerial Council on Aboriginal and Torres Strait Islander Affairs (though it is not clear how this COAG council articulates with the Commonwealth's new arrangements in Indigenous affairs). The Commonwealth government also established the Secretaries' Group, consisting of all departmental heads whose functions include an aspect of Indigenous development, chaired by the head of the Australian Public Service, the Secretary of the Department of Prime Minister and Cabinet, Peter Shergold (himself once CEO of ATSIC). The Associate Secretary of OIPC is only one member of this group, but he also brings to it prior experience as a CEO of ATSIC. The establishment of these two groups is both symbolic and practical. It is a signal of the relative priority the government gives to improved administration of development programmes. It is an important signal of intent when governments commit their Ministers and senior bureaucrats in this way, since it would be politically embarrassing, as well as personally demeaning, for them to fail. It is also intended to be practical. Taking a simple functional view, assuming that rational administrative structures are effective in themselves,[18] Ministers should be able to walk away from their meetings with agreement over coordinated responsibilities that they can enforce on their portfolio agencies. The Secretaries also, in a more detailed manner, should be able to do the same within their agencies. Among these agencies OIPC occupies a somewhat indeterminate space.

---

[17] Office of Indigenous Policy Coordination (OIPC), *New Arrangements in Indigenous Affairs* (2005).

[18] This is something that neither Critical Management Studies (see Mats Alvesson and Hugh Willmott (eds), *Critical Management Studies* (1992)) nor an anthropological understanding of organisations (see Susan Wright (ed.), *The Anthropology of Organisations* (1994)) take for granted. Shergold himself says: 'No prescription of rules and procedures, however detailed, can ever address the diversity of issues that are likely to emerge — and the very attempt to do so is likely to undermine the trust that one is seeking to build' (Peter Shergold, 'Two Cheers for the Bureaucracy: Public Service, Political Advice and Network Governance' (Paper presented at the Australian Public Service Commission Lunchtime Seminar, Canberra, 13 June 2003), available at:
<http://www.dpmc.gov.au/speeches/shergold/australian_bureaucracy_2003-06-13.cfm>).

With the abolition of ATSIC and ATSIS, mainstream agencies have taken up responsibility for delivering citizenship entitlements to Indigenous people. The Office of Indigenous Policy Coordination is, as its name indicates, a coordinating agency. Effectively, then, there are three levels of coordination – the Ministers, the Secretaries, and the OIPC itself. We can add to this a fourth, the regional Indigenous Coordination Centres (ICC) that OIPC administers. It is not yet clear how OIPC is to be responsive to the Taskforce and the Secretaries' group in functional terms, except through its own Minister, its Associate Secretary and the Secretary of its mother department, FaCSIA. At a much lower level, it is still not at all clear how the regional ICCs are to coordinate commonwealth government multi-agency interventions and programmes. Still less is it clear how these various commonwealth bodies are to encourage the cooperation of the notoriously difficult state governments and their agencies. Though bi-lateral agreements have been negotiated, it is likely that these address the allocation of resources rather than the distribution of authority. That is, there are no signs yet that any State functionaries have been placed under the direction of Commonwealth managers. It is not surprising, then, that the problem of implementing whole-of-government policy has, in these initial stages, taken a back seat to the more tractable programme of Shared Responsibility Agreements (SRAs), about which more will be said below.

In the first year of operation of the new policy OIPC established Indigenous Coordination Centres at the regional level and staffed them, initially, with senior public servants enticed to the regions by benefits commensurate with their Australian Public Service (APS) status. These benefits were tied to their ability to perform well. From a public service point of view, when significant results are expected a programme should be placed in the hands of senior people plied with material motivation to perform well. In practice this may not have been done in a particularly sophisticated manner. If performance payments have been pegged only to the number of Shared Responsibility Agreements an ICC Manager can produce and not to their material outcome, as some reports suggest, it will be relatively easy, but also relatively meaningless, for senior managers to meet performance targets. As ICCs have increased in number it appears that this policy of senior staffing has been wound back.

In addition, at the national level OIPC appointed an officer charged with cutting red tape in the implementation of development programmes. This office began by contracting a representative survey of selected Indigenous communities to estimate the productivity losses in duplication of services, duplication of reporting requirements, and onerous or unnecessary reporting or audit. The report was delivered in May 2006.[19] Another officer was appointed

---

[19] Morgan Disney & Associates, *A Red Tape Evaluation in Selected Indigenous Communities: Final Report to OIPC* (2006), at
<http://www.oipc.gov.au/publications/PDF/RedTapeReport.pdf#search=%22A%20red%20ta pe%20evaluation%20in%20selected%20Indigenous%20community%22>.

to mediate Commonwealth/state relations. The Secretaries' Group proposed the appointment of 'solution brokers' to work in key areas to reduce bottlenecks and mediate cooperation where delays are occurring in implementing urgent programmes.[20] All of these initiatives were admirably pragmatic and attempted to side-step many of the problems in previous forms of administration. It is of concern, then, that the positive and difficult work of instituting a new Indigenous affairs culture has been overshadowed by the subsidiary policy of implementing Shared Responsibility Agreements and, to some extent, Regional Partnership Agreements. To understand the problems it is necessary first to step back and take a look at OIPC itself.

OIPC was, at the time of implementing the arrangements, a small and structurally rather marginal section of the Department of Immigration and Multicultural Affairs. Now part of FaCSIA, its continued independent existence and relationship to its parent Department is murkier still.[21] It still has some residual functions of ATSIC, for instance in coordinating Native Title Representative Bodies and repatriation of cultural material from overseas. In policy terms, all other functions of ATSIC have reverted to mainstream functional departments — health, education and training, etc.[22] OIPC is left with a coordinating role. Yet coordination in any arena is always a combination of cajolery, promise and threat. OIPC is not equipped with any sophisticated administrative instruments to perform this balancing act. It is not powerful enough to cajole in areas where there is real disagreement or recalcitrance. Its ability to promise depends on its relatively small (in relation to need) pool of discretionary funds. Its only threat is to withdraw support where it is propping up or filling in for State programmes. Withdrawal of OIPC support would have a devastating effect on its clients in most cases. In a rational world, OIPC would be expected to wield some power at the Secretaries' Group and through its Minister on the Ministerial Task Force, because both of these have been established within its area of expertise. In reality, it is likely to succumb to the Australian Public Service pecking order, where the bigger departments get the bigger say. As ever in Indigenous affairs, it is at risk from political interference for the management of public perceptions. Indeed, the management of public perception is one of the key drivers of the Shared Responsibility Agreement programme.

IV Shared Responsibility Agreements

---

[20] Secretaries' Group on Indigenous Affairs (SGIA), *Bulletin* 1 (2005) 3.

[21] In September 2006 the Secretary of FaCSIA, Dr. Jeff Harmer, integrated some of the functions of OIPC with previously existing similar functions within FACSIA, while creating a Strategic Interventions Task Force responsible to Associate Secretary Wayne Gibbons. The Strategic Interventions referred to are those of particular concern to the Minister. While this still leaves a rump OIPC with some functions, it is clear that the present changes are the first step towards fully integrating Indigenous affairs into the running of FaCSIA core business, and at the same time effectively providing a managed conduit for Ministerial intervention.

[22] OIPC, above n 18, 9.

The introduction of mutual responsibility into social welfare programmes is not unique to Australia. It has been more firmly established as a plank in the 'third way' platform of the Blair government in Britain. In Australia, it has been the principle behind changes to unemployment benefits, which have required recipients to show greater willingness for retraining, relocation and lowered job strata expectations. In Indigenous affairs, it translates as a community or settlement's willingness to modify its behaviour in ways favourable to health, education and the communal social and physical environment, in return for allocation of discretionary funding for some public purpose. The use of the term 'discretionary' by OIPC staff is important. In conception, all necessary funding of citizenship entitlements now rests with mainstream agencies and with state governments. OIPC's grant funds are supplementary and therefore discretionary and so can be contingent on contractual arrangements for improved behaviour. With its control over discretionary funds, OIPC retains some of the grant function of previous regimes such as the Department of Aboriginal Affairs that gave way to ATSIC in 1989, and of ATSIC itself. This is inappropriate for a coordinating department, but it is a lever of control that it would find difficult to relinquish, partly for political reasons. Shared Responsibility Agreements (SRAs) resonate well with a public increasingly convinced of Aboriginal irresponsibility with well-intentioned public funds. At the same time, they offer political capital; with each signing the media celebrates the gift of yet another facility to the native population. Pursued in the current manner they threaten to overwhelm the innovative project of the OIPC with a reversion to the grant regimes of the past. If, however, they develop, as suggested by the Secretaries' Group, into complex whole-of-community multi-factoral interventions,[23] they may be able to offer the necessary impetus to whole-of-government development coordination, an argument that I will develop here.

By July 2006, 153 SRAs had been signed with 123 Indigenous communities. They cover a diverse range of benefits from A$1 035 000 for a community store at Minjilang (NT), and A$450 000 for a mud crab enterprise at Kulaluk (NT) to A$704 000 for 'secretariat support for community working parties' for the Murdi Paaki Regional Council.[24] Even a cursory glance at the DMIA list raises questions about the discretionary nature of these benefits and the responsibility of government to fund development among its most impoverished and disadvantaged citizens. If it is argued that the activities funded by OIPC under its SRA programme are discretionary *for OIPC*, that alternatively, they could be the core business of another government department or jurisdiction, then clearly OIPC should not be funding them. It

---

[23] SGIA, above n 21, 2.

[24] Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), *Shared Responsibility Agreements: Australian Government Investment in SRA Activities* (2005) Australian Government: Indigenous Portal <http://www.indigenous.gov.au/sra/kit/table.pdf> at 30 October 2006.

simply compounds the confusion of roles that whole-of-government policy was meant, in part, to overcome. OIPC should facilitate their provision from the appropriate authorities. If, however, these programmes or facilities are not entitlements but simply good will gestures on the part of government, the probity of the arrangement is called in question. Since when has government offered gifts to selected citizens? Demanding promises in return for good behaviour makes this arrangement even more suspect in terms of its good governance principles. Perhaps this is scrutinising the policy in a naive way. It is a grant programme that does recognise needs and demands in return for pledges of self-help, as distinct from mainstream grant giving which simply recognises need. It differs from previous Indigenous grant programmes in that the good behaviour required is not necessarily functionally linked to the benefit provided. For instance, in the past a vehicle would be provided for the social benefit associated with that vehicle: rubbish collection, transport of pensioners, outstation support etc. Under SRAs these necessary activities are implied (its not likely that it would be provided for hot-rodding for example) but it could be provisional on an unrelated activity — a school breakfast programme, for example.

Regarded in this way, much of the SRA programme can be seen as the repackaging of ATSIC's grant role, but with some important differences. Firstly, it positions OIPC advantageously for the necessary negotiation with other Commonwealth, and with state government, departments to shoulder a greater share of the Aboriginal development burden. The rhetorical stance of discretionary funding may help to remove one of the previous impediments to Indigenous development — the ghettoisation of Indigenous service delivery. Because it was the responsibility of an Indigenous affairs agency it was no-one else's responsibility. Indeed, mainstream servicing — if it occurred — was sometimes seen as discretionary. Secondly, the SRAs have the important aim, though inappropriate in this context, of restoring community authority by tying development funding to positive community behaviour. This is well-intentioned but misguided. First, it takes an unrealistic view of the nature of authority in most Aboriginal communities. There is no cultural precedent for a leadership to enforce compliance in return for a community good.[25] The SRA is a blunt implement for addressing the complex problem of governance malaise. It is conceived in the cultural system of contract and obligation, and is not a good substitute for long-term programmes which engage the community in their own cultural change on a daily basis with the involvement of skilled development workers. Secondly, it encourages non-productive grant eliciting

---

[25] See, L.R. Hiatt, *Aboriginal Political Life* (1986); Patrick Sullivan, 'From Land Rights to Political Rights: Hunter-Gatherer Politics and the Contemporary Australian State' (1997) 2 *Tsantsa*: *Journal of the Swiss Society of Ethnology* 9; Patrick Sullivan, (2006) *Indigenous Governance: the Harvard Project on Native American Economic Development and Appropriate Principles of governance for Aboriginal Australia*, (Discussion Paper No:17, Research Programme, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra).

and a continuing grant dependency culture at the same time that it ostensibly requires self-determining programmes. Thirdly, the success of SRAs depends upon an infrastructure of education, health, transport, and administrative support services of a sufficient level to allow the community to engage with them. This requires the whole-of-government coordination that an overemphasis on SRAs is in danger of substituting for.

One example that became quite notorious when it was made public illustrates these contentions. It is the agreement with the Mulan community in the remote south Kimberley for the provision of a fuel bowser in return for agreement to wash children's faces. It is not necessary to rehash arguments about paternalism, nor that the face-washing programme was a community initiative well-advanced before the signing of the agreement.[26] Rather, it is important to tease out the ramifications of that simple act of face-washing, and that simple bowser, to arrive at the conclusion that there is no such thing as a simple SRA. There are simplistic SRAs — those that neglect long standing practice in Indigenous planning. The transition to SRAs of acknowledged complexity can only be welcomed.

Washing children's faces to remove the bacteria that lead to eye infection, scarring of the interior eyelid, and abrasion of the cornea (trachoma) is clearly beneficial. Encouraging this by establishing a contractual arrangement with the view to instilling community monitoring and control of each other is rather optimistic, neglecting the nature of authority in Aboriginal communities. Something must be done about the breakdown of order in Aboriginal settlements, but SRAs are not it. The idea that SRAs will encourage Aboriginal people in the belief that they can take control of their own lives is erroneous. Grant giving from its earliest days has always been predicated on community identification of need, and community promises to apply the grant to good purposes. It encourages only skills in the manipulation of grants from government and little else. A second point is that, while trachoma eradication is urgent, so is the reduction of other debilitating diseases. Otis media, middle ear infections, lead to deafness and consequent poor educational performance. Intestinal parasites are also a major problem in remote communities, causing malnutrition and high mortality rates in infants. There is a view that dental hygiene in childhood has a very strong impact on Aboriginal health later in life. It can cause infections that fundamentally weaken vital organs, such as the heart, and this can lead to heart disease in middle age, accounting for some of the incidence of low life expectancy. Mortality of all forms, not least from violence and accidents, produces widespread and cumulative grief which undermines a people's ability to take charge of their own programmes. Face-washing to reduce trachoma is important, but it is only one of the elements needed in wide-ranging long-term programmes that cross over health promotion, education, community policing, good administration and a host of other areas. This is not new, this is well-known. SRAs have the potential to

---

[26] Ruth McCausland, 'Shared Responsibility Agreements' (Briefing Paper No 1, Ngiya Institute for Indigenous Law, Policy and Practice, University of Technology, 2005) 17–18.

become a distraction from these more complex programmes, even a substitute for them, and they are being negotiated in haste by people with little expertise in these areas of intervention.

Aboriginal affairs has suffered enough from ill-considered grant programmes, poor planning and lack of foresight in producing the unforseen consequences of development initiatives. Even a brief consideration of the situation at Mulan indicates how a simple SRA may reproduce these problems. The community operates a pastoral station venture with its neighbour Aboriginal-owned Billiluna (Mindibungu), and it has strong cultural relations also with Ringers Soak (Kundat Djaru) community and with Balgo (Wirrimanu). Many of these people from time to time migrate across the border into the Northern Territory to Lajamanu and to Yuendumu. The planning of this SRA should take into account this mobility and the changing composition of the residents of the settlement because it needs to consider factors of reinfection. As well, planners need to assess whether this positive behaviour can be effectively maintained as people move around, and assess what may be necessary to maintain it. They need to consider, also, the people coming in and out of the Mulan community who will not have signed up to this SRA. If a family is regularly doing what it said it would do, and then is impacted by others who do not, indeed who have no knowledge of the programme, what effect will this have on the family's morale? In assessing community compliance, how is it determined who the SRA applies to and who is exempt?

At the time the Mulan SRA was made known it was believed that the provision of the fuel bowser was a community benefit arranged because fuel was only available at Balgo, some distance away.[27] However, since the fuel to be provided is petrol, rather than diesel, it is mainly for the benefit of tourists, with some intention that the community use it as a form of economic engagement with the wider economy.[28] This may prove beneficial to the community. However, in the absence of a regional business plan that would take into account the impact on other local communities losing tourist income to Mulan, such as Balgo and Carranya, it is difficult to determine this.

None of the difficulties raised here are without solution, nor should they be taken as an argument for not providing a simple facility such as this fuel bowser. However, they point out the need to learn from experience in community planning for Aboriginal development. In the early years of the Commonwealth Department of Aboriginal Affairs similar grants to those that are now listed as SRAs were made. These alligator farms, horticultural ventures, and bull-catching plants universally failed due to inadequate business planning skills on the part of the officials charged with development just as much as the Indigenous people in receipt of the grants. SRAs are running a similar risk of being 'all carrot and no donkey'.

These are just some of the questions with which anyone involved in

---

[27] See McCausland, above n 27, 18.
[28] Ibid 8; DIMIA, above n 25.

Indigenous development must be familiar. They require developed sectoral programmes, such as integrated health initiatives that take into account community awareness, training and the presence of skilled professionals. They require also cross-sectoral programmes — in the schools, in policing and in encouraging effective leadership. They cannot be solved by simple SRAs. They may be tackled by the more complex whole-of-community SRAs proposed by the Secretaries' Group, but these will require more than the disbursement of discretionary funding. They will require robust whole-of-government arrangements, including the involvement of state governments. They are dependent on these infrastructure arrangements, which must be in place before SRAs can be responsibly negotiated. This is the true arena of innovation from which single-issue SRAs are a distraction.[29]

V Non-Government Organisations and Regional Partnership Agreements

To be successful complex SRAs require more than cooperation across government departments and jurisdictions. They will require the involvement of the NGO sector for negotiation, implementation, monitoring and reporting. This is another area where political perceptions may again come into conflict with the pragmatics of Indigenous development needs. In mainstream governance it has long been recognised that NGOs play an important and increasing role. As Shergold says:

> The administrative reforms that have marked generational change in the APS, often characterised as the 'new public management', have been extolled, debated and criticised. But, beneath, something far more profound has happened almost unnoticed. Governance has been democratised. The elements of this quiet revolution are clear enough. There is increasing competition in the delivery of services to government and on behalf of government. Benchmarking, market testing and contract management have become a staple of public administration. The provision of policy advice has become contestable. The delivery of public policy has been outsourced. Such developments are now the standard fare of public service commentary.[30]

In Indigenous affairs, consensus on the role of Indigenous Community Sector NGOs is not so apparent. They have been seen as part of the problem since the present government took office, when the Prime Minister's first press conference was given over to an announcement of an audit of all organisations funded by ATSIC. They are a clear target of Minister Vanstone's comments in a recent speech at the National Press Club where she said:

> The history of these [Indigenous] services is that they've been provided through

---

[29] The Warburton Regional Partnership Agreement (RPA) includes provisions — embedded in SRAs — that clearly go beyond discretionary grants into areas of citizenship entitlements.
[30] Shergold, above n 19.

Indigenous organisations. Some do a tremendous job but there has been waste, there has been corruption and that means service provision hasn't been what it should be. If we continue to regard these organisations as untouchable and unaccountable we are failing our Indigenous citizens yet again.[31]

Over the past three decades Aboriginal Australia has developed an intricate network of Aboriginal owned and controlled service organisations in the fields of health, legal assistance, land and heritage management and protection, education, arts and media.[32] These have inevitably become both service delivery organisations, advocacy bodies, and in many cases the institutional base for leading Aboriginal political actors. This poses a problem for OIPC, which is clearly in need of the positive attributes of NGOs — local wisdom, community credibility, expertise acquired through practice, and not least the willingness to work for less material reward and under more difficult conditions than its own staff. The pool of individuals and organisations that have these attributes is the same as that denigrated and regarded with suspicion at the political level of government. It is worthwhile considering some of the foundations of this problem by contrasting non-Indigenous NGOs and representative organisations with these Indigenous NGOs.

In the mainstream, functional NGOs tend to lie at one remove from advocacy organisations, though they may make up the spokes of its umbrella. The Salvation Army, the members of the Australian Collaboration, the Country Women's Association, these tend go about their work leaving advocacy for their clients to the Australian Council of Social Services, the Farmer's Federation, the Council for Civil Liberties or World Vision. In Indigenous affairs the advocacy organisation, ATSIC (which replaced the National Aboriginal Conference as well as the Department of Aboriginal Affairs), has been responsible also for programme delivery. It has not been a credible advocate, even from many Indigenous peoples' point of view, and this role has often fallen to the land councils, health bodies or legal services. In this they fall foul both of the political arm of government and of its administrators — the first reacting to criticism as if it is motivated by party political affiliation, the second being both sensitive to criticism as a career threat as well as being concerned that advocacy interferes with practical effectiveness. NGOs that are responsive to government and credible to their clients can only be fostered where their advocacy needs are adequately met by an effective organisation crafted for that purpose. This will leave them free to engage only with the pragmatics of Aboriginal development. The local resource agencies in the Kimberley region, for example, once filled this role well, leaving advocacy to bodies such as the National Aboriginal Conference, the Kimberley Land Council and umbrella organisations like the Aboriginal Legal Service and the Kimberley Aboriginal Medical Services Council. Advocacy in the new arrangements falls to a small state-appointed National Indigenous Council

---

[31] Vanstone, above n 13.
[32] See Rowse, above n 14.

which to date has made little contribution to public debate and whose legitimacy has been challenged. This is short-sighted — risking precisely the hijacking of functional organisations that previous administrations have found so distasteful.

In this climate, it is not clear how Regional Partnership Agreements (RPAs) and the Indigenous networks proposed to support them will meet the needs of their constituencies. If RPAs are to be 'a mechanism for guiding a coherent intervention strategy across a region'[33] government will need to have its integrated administrative framework firmly established, something that still seems a long way off. Just as complex as inter-departmental and inter-jurisdictional cooperation are the Indigenous cross-cutting regional alliances, oppositions and competition for resources that have developed over the last thirty years. Current policy envisages 'regional structures' or 'representative networks' that will vary according to regional circumstances which will negotiate these Regional Partnership Agreements.[34] It is significant that RPAs have their own acronym, while the regional structures or networks that will negotiate, sign-off and support them do not. It is indicative that this aspect of the new arrangements is undeveloped, and it signifies also that this is probably the most complex area for OIPC to become involved in. These networks will require legitimacy, experience and skills beyond that demanded of the ATSIC Regional Councils that they replace. This is because the Regional Councils in most parts of Australia did little more than advise the ATSIC bureaucracy on how to distribute local funding.[35] The new networks will need to set regional planning priorities for the integrated delivery of services from a range of government departments and jurisdictions, and be able themselves to deliver cooperation and agreement from their constituent communities. Although the aim of the RPA scheme is better founded than that of ATSIC Regional Councils, there are few, if any, regions of Australia that are currently equipped to engage with it.

The policy envisages regional representative networks congenial to the actually existing circumstances of a region. These may be language group entities, clusters of clans or families, networks of settlements, coalitions of functional organisations or, indeed, single regional organisations. This is actually a step backwards, but is nevertheless a step in the right direction. Both the O'Donaghue and the Coombs report recommendations in the lead up to ATSIC supported diversity in regional structures in keeping with local cultural circumstances.[36] These recommendations were not accepted. The current

---

[33] OIPC, above n 18, 17.

[34] Ibid.

[35] The Murdi Paaki Regional Council in NSW was one exception to this.

[36] Patrick Sullivan, 'Beyond Native Title: Multiple Land Use Agreements and Aboriginal Governance in the Kimberley' (Discussion Paper No 89, Centre for Aboriginal Economic Policy Research, The Australian National University, 1995) 3; Kingsley Palmer, 'ATSIC: Origins and Issues for the Future' (Research Discussion Paper No 12, Australian Institute of Aboriginal and Torres Strait Islander Studies, 2004) 5.

arrangements offer the opportunity to try again. However, these recommendations from the 1980s were based, as is the RPA policy, on the assumption that there is an unincorporated polity in Aboriginal regions that only needs to identify itself to qualify. The difficulties in this assumption are numerous. There is not one polity in a region, there are many and they have overlapping membership. The legitimacy of representative voices is limited not only to locality but also to context, thus different people speak for different areas of expertise or responsibility within the one region, sub-region or locality. Regions themselves are not readily identifiable for these reasons — if they are to be identified with cultural and social blocs this question of overlapping and cross-cutting cultural jurisdictions makes them problematic, if they are to be identified geospatially they will not encompass well the social groups they are designed to capture. As well, they will have to interact with existing organisations that have both statutory and cultural legitimacy such as Prescribed Bodies Corporate and Representative Bodies under the *Native Title Act 1993* (Cth) and lands trusts and Land Councils under the various state Acts. These problems are not insurmountable, they have been recognised and analysed at least since the High Court recognition of native title in 1992 introduced the possibility of regional settlements by agreement.[37]

The proposed regional networks that will sign up to RPAs will come into a world already populated, into contact with sets of institutional arrangements with long histories, accumulated skills and experience and hard-won, but always contingent, legitimacy. Harking back only to the brief, and externally imposed, era of Regional Councils would be a mistake. O'Donaghue's and Coombs' advice was not heeded. The *ATSIC Act 1989* (Cth) imposed Regional Councils elected by constituencies based, in most cases, on existing statutory boundaries. From the start they were regarded at best with ambivalence and frequently with hostility even by those who chose to engage with them.[38] For the most part they failed to attract the talent away from the established organisations, which themselves sometimes formed unrelated regional organisations. It is significant that the ATSIC Zone, encompassing all Regional Councils, never functioned as a regional focus. In retrospect an approach to 'nesting' sub-regional and regional agreements and organisations one within another could have been more productive.[39] Consultations over regional networks will most usefully begin at the sub-regional or locality level, where functional organisations occupying the same territory and with the same local client base can be encouraged to work more closely together. These clusters, that will vary in their components from locality to locality, may then

---

[37] See Mary Edmunds (ed.), *Regional Agreements: Key Issues in Australia* (Vols 1 & 2, 1999).

[38] See Patrick Sullivan, 'All Things to All People: ATSIC and Australia's International Obligation to Uphold Indigenous Self-Determination' in Patrick Sullivan (ed.), *Shooting the Banker: Essays on ATSIC and Self-Determination* (1996) 105, 105-8.

[39] See Patrick Sullivan, 'Claims, Regions, Agreements: The Kimberley' in Mary Edmunds (ed.), *Regional Agreements: Key Issues in Australia* (Vols 1 & 2, 1999) 287, 289, 313.

themselves contribute to, or be nested within, wider regional arrangements.

Complexity in organisational and cultural networks can be found throughout Australia, though there are significant differences from region to region. In some areas mining companies promote and cross-fund local organisations for the purposes of liaison and development that are very similar to those of government. In other areas Natural Resource Management (NRM) is a powerful enabler of representative organisations. The Murray Darling Basin Commission-supported Murray and Lower Darling Basin Indigenous Nations is one example.[40] In NSW, the Murdi Paaki Regional Council developed over several years into a multi-purpose regional development body and has survived the dismantling of ATSIC. These last two examples, though successful in themselves, also provide examples of the problems of Aboriginal regional organisations. Both have some power and legitimacy among their constituents. One is regional, the other spans jurisdictions, but they have little if any communication with each other. They point out the need for substantial intra-Aboriginal negotiation and mediation in a region before networks can be consolidated. Suspicion, jealousy, or simple non-alignment exists in Aboriginal regions as much as it does between government departments and jurisdictions. As the Indigenous Facilitation and Mediation Project (funded by OIPC and based at AIATSIS) has shown, active relationship-building by skilled professionals over a substantial period will be needed if regional networks are to have the legitimacy to negotiate, and the ability to facilitate, Regional Partnership Agreements.[41] As well, they will need to preserve their relative autonomy if government is to benefit from any influence they can assert over their constituents.[42]

This is a long way from the ambivalence with which government continues to regard the Indigenous community sector. OIPC pledged to consult Regional Councils about the appropriate form for their replacement bodies. This was done in a patchy, half-hearted manner without tangible result. OIPC pledged also to consult more widely. This has not happened. It is inevitable that Indigenous regional alliances will speak uncomfortable truths to government, and that they will wish to influence the agenda for discussion, including in many areas the question of inherent rights with which the current government has shown considerable impatience. Regional networks will not work as

---

[40] See: <http://thelivingmurray.mdbc.gov.au/background/community_consultation/indigenous_consultation>.

[41] Indigenous Facilitation and Mediation Project, 'Building Indigenous Capacity in Consultation, Negotiation and Agreement-Brokering: The Need for Procedural Expertise' (Working Draft, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, 2005), available at:
 <http://ntru.aiatsis.gov.au/ifamp/research/pdfs/nationalapproach_proceduralexpertise.pdf>.

[42] It is significant that the only RPA date, with Ngaanyatjarra Council (which this paper cannot deal with in any depth), concerns a large region that is relatively culturally homogenous and has existing well-integrated service and administrative organizations. It is therefore quite anomalous in the general Australian Indigenous context.

government wishes unless this potential is recognised as simply part of the landscape. It is more likely to lead to debilitating confrontation where representative organisations see no advantage in cooperating in a spirit of mutual advantage. This is likely to occur if government succumbs to the temptation to craft ineffective organisations. That would also, of course, be self-defeating as they will not meet the needs of its own new agenda.

There is a further element to regional organisation that is missing from OIPC's proposals. It is the necessary linkage between Aboriginal people's representatives and the skills, knowledge base and good-will of those non-Aboriginal interests with a long-term commitment to the region. This may well be an opportune time to put forward once more a bi-cameral approach to regional governance.[43] Of course it is inappropriate that non-Aboriginal people should assume representative positions in any arrangement for Aboriginal representation and implementation of development programmes. However, there should be forums in which Aboriginal and non-Aboriginal people can meet to decide together broad policies and programmes for the regions that they share, and to iron out among themselves the impediments that they encounter.

VI Conclusion

This paper has canvassed aspects of the new arrangements in Indigenous affairs. Principal among these is the twin effect of mainstreaming Aboriginal services, potentially tapping into the skills and funding base of non-Indigenous government departments, coupled with the intention to streamline and coordinate services across departments and jurisdictions. While techniques of administration uniquely applicable to whole-of-government policy are not yet well developed, the lead coordinating agency, OIPC, has, with the Secretaries' Group, instituted some key innovations that have considerable promise. Two significant absences in the new arrangements are, so far, the lack of credible regional representation and the lack of a distinctly autonomous national Indigenous voice. The latter is not envisaged by government at this time. Concentration on signing up SRAs distracted the ICC managers in their first year of operation and has led, at best, only to a 'suspension of disbelief' among the Indigenous groups whose cooperation is required. As well, the policy of establishing regional representative networks that will be responsible for Regional Partnership Agreements is, so far, embryonic. To work effectively it will need to confront some of the most pressing problems of authority and legitimacy in Indigenous areas. These will need active facilitation and mediation of a skilled nature that cannot appropriately be undertaken by the staff of the ICCs. It is not only, as Shergold points out, '… the need for agencies to recruit and develop people with the right skills [and that] relevant topics should be included in induction and training so that coordination,

---

[43] See Sullivan, above n 38, 16–17.

cooperation, negotiation and openness are truly valued'.[44] There is also a need, not just within OIPC but also in all of the other arms of government, for cultural change. This in turn requires an examination of existing cultural dynamics within the administration, the drivers — aspirations, insecurities, inertias and rewards — that lie behind these, and in the light of this understanding, programmes must be initiated for new arrangements of governance within the bureaucracy itself. As a senior British civil servant told Kavanagh and Richards:

> … at the moment we have tried to join government up with Sellotape and bandages and I think it is going to take a lot more in cultural terms to really join up government. It will take serious incentives … to make officials and ministers working within departments realise that they are being judged upon the outcome of the overall policy and not just on their own individual role or that of their department.[45]

The problems on the Indigenous side of the development equation are immensely complex. Equally, they are well known, well-studied, and there is an increasing body of experience in dealing with them, not least among Indigenous organisations themselves. The problems on the non-Indigenous side, in contrast, are not well understood and have been little studied in Australia.[46] Although they require urgent attention, they are subject to resistance by both politicians and civil servants because of the extreme sensitivity of Indigenous disadvantage in a country struggling to build its sense of national identity. This may prove an unsurmountable obstacle to the necessary introspection that the Australian Public Service requires at this crucial juncture, and the innovations described in this paper are still in danger of being reinterpreted into business as usual, the routine application of failed procedures to a field seen to be intractable to progress, and which therefore defaults to the political management of public perception.

---

[44] Shergold, above n 4, 14.

[45] Kavanagh and Richards, above n 7, 16.

[46] But see Sue Hunt, 'Whole of Government: Does Working Together Work?' (Policy and Governance Discussion Papers 05-1, Asia Pacific School of Economics and Government, The Australian National University, 2005).