

## **LEARNING THE LESSONS OF ATSIC**

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Getting rid of the National Indigenous Council was one of the few first steps that new Minister of Indigenous Affairs, Jenny Macklin, has gotten right. You would not need to do much consultation with Aboriginal and Torres Strait Islander communities around Australia to quickly figure out that the NIC was viewed with derision and contempt. Only the people who, through naivety or arrogance, decided to take the 30 pieces of silver and a modern day breastplate were happy enough to endorse all of John Howard's Indigenous policies. While claiming they 'advised', they never sought to consult with the Aboriginal and Torres Strait people on the ground who would be affected by the policies they rubber stamped. Every budget that was passed during the lifetime of the NIC stated it had been deliberated 'in consultation' with them.

Happy to take over from a body that at least was accountable to Aboriginal and Torres Strait Islanders through an election process, the NIC were happy to skip any accountability and transparency for the decisions they made. From proposing the mandatory leasing of communally held land from traditional owners, to endorsing the under-funding of Indigenous health by about \$460 million, to abolishing CDEP, the quarantining of welfare payments and ripping the housing money out of NSW; they endorsed – or perhaps gave – bad policy advice after bad policy advice.

Macklin was right to give them the boot. The NIC sat over some of the worst policy developments in federal affairs since 1967 and she needs to move away from such bad advice. It is one of the few things that she has done that shows she is actually listening to what Aboriginal people are saying, namely, that they want a body that represents them, not patronises them.

The real challenge for the new Minister will be what she will replace the NIC with. That will be a long process and one that the ALP should have been starting a long time ago. It has been a long-standing policy and they knew that they had a pretty good chance of beating Howard this time. And anyone who knows the landscape of Indigenous affairs knows that consultation, proper consultation, is a time consuming process.

It would have been tempting to keep the NIC on to 'fill the vacuum' that the NIC members now claim is created, but far better for the Minister to send the message that she is removing a body that was an anathema to Aboriginal and Torres Strait Islanders. After all, a vacuum left by sycophants or merely endorsed bad policy advice is not a vacuum worth filling.

There was a more important vacuum left when the ALP, led by Mark Latham, agreed to support the Howard government to abolish ATSIC. That was a vacuum that left no mechanism for a national voice to give an Indigenous perspective on key government policy developments. No national structure to

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provide critique of the abolition of CDEP, the quarantining of welfare payments, the failure to support the Declaration on the Rights of Indigenous Peoples, the flaws in shared responsibility agreements and the continual underspending on Indigenous health. The vacuum left no other voice on the national stage other than the handful of Indigenous commentators who were given a platform in the ultra-conservative Australian newspaper. Most of the country was left with the view that the editorial line of *The Australian* was the only view, a perception that meant many Indigenous people at the grass roots felt marginalised, silenced and disempowered.

In what seems like a schizophrenic policy position, the ALP supported the abolition of ATSIC but have had, as a key part of their Indigenous policy platform, support for a national representative body. They know they don't want the NIC and they know they don't want ATSIC. Their approach is to, quite rightly, consult with Aboriginal and Torres Strait Islanders about what such a body should look like but since the policy has been in place since the abolition of ATSIC in 2004 it would have been advantageous for them to have started those consultations earlier. Now, if they are to consult properly, in a way that will make the majority of Indigenous people feel that they have been included in the process and have some ownership of the new model, the process will take many months, even years.

If one was cynical, they might even think it was a clever way to buy time before having to do anything. To expedite a process that will be time consuming if done properly, the ALP should have already developed a model to take to Aboriginal and Torres Strait Islander people that will give them a starting point for a discussion about what they do and don't want.

In building a new body, the ALP would be wise to keep in mind two lessons.

**The first lesson** is that it will never be satisfactory to hand pick advisors to represent the interests of Aboriginal and Torres Strait Islanders. Even though it would not be hard to find a group who would be less offensive than the ones that Howard cobbled together for his NIC, hand-picked is still hand-picked. And as much as non-Indigenous people feel that they understand the political landscape, they often confuse the advocates who are influential with non-Indigenous Australia with the advocates who are influential within the Aboriginal and Torres Strait Islander community.

New Minister for Indigenous Affairs, Jenny Macklin, has already fallen into this trap. When organising the meeting between leaders in the Northern Territory and Prime Minister Rudd, she picked a list of people who she thought represented the interests of the communities there. She made a decision, which she steadfastly stood by, that she would not include Aboriginal spokesperson Pat Turner in the group.

As Chair of National Indigenous Television, I work closely with Pat Turner in her role as CEO and I watched the strong leadership role that she took as the Northern Territory intervention was rolled out. She was one of the loudest critics of the worst aspects of the intervention, highlighting the underlying land grab and the dangers of repealing the permit system and of

quarantining welfare payments. Her criticism of Brough and Howard gave a voice to people in Alice Springs and undermined the political mileage that the Coalition sought to gain from the intervention in the lead up to the election.

When the attendees at the Garma Festival chose representatives to take their message to Canberra to protest against the intervention, they chose Pat Turner and John Ah-Kit. In the first meeting with leaders of the Northern Territory, Jenny Macklin decided that Pat Turner was not going to have a place at the table, a surprisingly bad (and arrogant) misjudgement by a Minister who too quickly fell into the trap of deciding who the leaders she wanted to speak with were. As I said, hand-picked is hand-picked.

**The second lesson** that the ALP can use immediately in their development of a new representative model is to avoid the right-wing rhetoric that barks ignorantly that ATSIC was a failure. ATSIC was flawed, no doubt, but the smartest thing that the Rudd government can do is to take a more sophisticated approach and learn from what did and didn't work about the ATSIC model. Even at a cursory look, some of the key lessons would include:

- The need to have an interface with the state and territory governments. Some of the key decisions about Indigenous policy – including health, housing, education and employment – are shared between the federal and state/territory governments. ATSIC did not have a formal way of providing representation at the state level though some states provided an informal one;
- The body should focus on policy and monitoring, not service delivery. ATSIC became overwhelmed with its administration of the CDEP and Community Housing and Infrastructure Program meant that it did not devote the time that it should have to developing policy and monitoring the way in which government was performing in the areas it still retained responsibility for, most notably health and education.
- The need for accountabilities and strict codes of conduct that, if breached, remove people from elected office. This would be assisted if Indigenous leaders were able to, when faced with accusations of impropriety, be more astute at judging how any attack on the integrity of the representative body makes it vulnerable and has longer term consequences.

**The other key lesson** from ATSIC that is an important lesson on how to shape any new body is the key role that regional representation plays as part of a representative body. In the research work we have undertaken at Jumbunna IHL on the aspirations for self-government by Aboriginal and Torres Strait Islander communities it is clear that the natural level of governance for many communities is at the regional level. This makes sense given the diversity of needs and diversity of cultures across the country. It allows for a level of government where people at the community level can feel involved with the dynamics of government.

The Regional Councils were a clear part of the ATSIC model and the ATSIC legislation provided for planning processes to occur at that level so Aboriginal and Torres Strait Islanders could be included in the procedure for identifying the priorities within their areas. They, after all, are best placed to advise what it is that they need most. So whatever model it is that the ALP finally proposes, it must make sure that it accommodates the need to have a parallel level of representation at the regional level that can then feed in to a national voice. In this way, the diverse views and needs of communities around the country can be canvassed but brought together to combine for a single voice on issues of national importance.