

Aboriginal Governance in Australia

by Henry Reynolds

Paper prepared as part of the
Research Program of the
Royal Commission
on Aboriginal Peoples

November 1994

Contents

Executive Summary	ii
The Evolution of National Aboriginal Policy	2
Self-Management/Self-Determination	4
Aboriginal Organizations	9
Aboriginal Homelands	13
The Development of Political Ideology	16
Current Issues	19
Notes	30

Executive Summary

From the time it was first settled by non-Aboriginals, Australia was considered to be *terra nullius* in colonial law and policy. No treaties were negotiated with the Aboriginal inhabitants. The British colonial office gradually developed policy with respect to Aborigines in the 1830s and 1840s, but the initiatives were not pursued by the colonial governments, which gained responsible government between 1866 and 1890. The federal constitution of 1901 prevented the national government from legislating on Aboriginal issues. From the 1960s on, however, national government became the major initiator of Aboriginal policy.

Policy in the early twentieth century was paternalistic and discriminatory, with high levels of government control of Aboriginal life and effective segregation of Aboriginal communities.

From the late 1930s until the early 1960s, assimilation was official policy. The Whitlam Labour government of 1972-1976 officially rejected assimilation, greatly increased spending and initiated a program to give recognition to Aboriginal land rights. The first national indigenous representative council, the National Aboriginal Consultative Committee (NACC), was established in 1973 and was replaced by the National Aboriginal Congress (NAC) in 1977.

Policy shifted again with the election of the Hawke ALP government in 1983. In 1990, the Aboriginal and Torres Strait Islander Commission (ATSIC) was established to take over the funding and functions of the federal department of Aboriginal affairs. ATSIC oversees a great many government programs related to health, housing and employment for Aboriginal people.

Independent incorporated Aboriginal organizations are responsible for major areas of service delivery, including primary health care, legal representations, housing and the media.

Groups specializing in legal and medical services for Aborigines were pioneered in the cities. In remote areas, the outstation movement reflected a similar seizing of the initiative from government. There are now somewhere between 500 and 700 outstations, mainly in remote areas of north Australia.

Modern indigenous political movements began in major urban centres in 1920s and '30s. The celebrations for the sesquicentenary of the first (non-indigenous) settlement in 1938 was a major focus for mobilization. In the more remote areas there were strikes among Torres Strait

Island maritime workers and Aboriginal pastoral workers. White-led civil rights organizations emerged in the 1960s. Aboriginal organizations emerged in the 1970s. Direct action predominated following the establishment of the so-called Tent Embassy in Canberra in 1972.

Indigenous issues are at the forefront of national debate. The recognition of Native title by the High Court in the *Mabo* case in June 1992 has created scope for wider changes, including the possibility of reaching regional agreements on the Canadian model. Discussion of constitutional reform and of the establishment of a republic involve consideration of the whole range of relations between Aborigines and the state. Many relevant questions are being considered by the Council for Aboriginal Reconciliation, established in September 1991.

Aboriginal Governance in Australia

by Henry Reynolds

Aborigines became British subjects as a result of four claims of sovereignty — in 1788 over eastern Australia, in 1824 over central Australia, and in 1829 over the remaining western third of the continent. The final claim of sovereignty was in 1879, when the islands of northern Torres Strait became part of Queensland. The status of British subject meant very little in practice. Many people so defined passed their lives without ever seeing a white person. The law offered little protection to Aboriginal life; few Europeans were ever brought before colonial courts for killing Aborigines. Governments sanctioned the policy of dispersal on far-flung frontiers. No treaties were ever negotiated. Aboriginal land rights were ignored, and until 1992 Australian courts defined Australia as *terra nullius*.

But the colonial office slowly developed a coherent policy towards the Aborigines during the 1830s and 1840s. By 1850 it included compensation for loss of land, to be taken from land revenues and spent on health, education and housing; the creation of reserves in closely settled districts and the recognition of the right to use and occupy all land employed for pastoral purposes and held under lease or licence from the Crown. But as power passed to the self-governing colonies — New South Wales, Victoria, South Australia and Tasmania (1856), Queensland (1859) and Western Australia (1890) — policy was both fragmented and shaped in ways far less favourable to the Aboriginal interest. When the colonies federated in 1901, Aboriginal policy remained the responsibility of the colonies/states. The federal constitution specifically precluded national involvement and overarching national policy making. Section 51(26) prevented the federal government from making laws for people of "the Aboriginal race in any state", and section 127 determined that "in reckoning the numbers of the people of the commonwealth...Aboriginal natives shall not be included".

The national government became involved in Aboriginal policy in 1911 when it assumed authority over South Australia's Northern Territory, but until the 1960s it was merely one of various governments with responsibility for Aboriginal policy in a specific geographical area. The growing importance of Aboriginal affairs, coupled with an effective campaign by Aboriginal

rights organizations, persuaded the conservative Liberal-Country Party government to seek amendment of the constitution at a referendum. In May 1967, a record majority of just under 91 per cent of the electorate voted to delete both section 127 and the relevant discriminatory wording in section 51(26). By that time many other discriminatory laws, regulations and practices at both the state and the federal level had been abandoned. But the federal government was slow to assert its new-won power over Aboriginal affairs.

Australia remains a federal nation. States' rights are guarded jealously. State governments still exercise important powers in respect of Aborigines and Torres Strait Islanders. Federal governments have been reluctant to assert their legislative supremacy. The three levels of government — national, state and local — all have a hand in policy making and service delivery. At the same time a wide array of indigenous organizations, ranging from the national to the local, from the general to the closely focused, play an increasing role in Aboriginal affairs.

The Evolution of National Aboriginal Policy

During the first half of the twentieth century Aboriginal policy was highly discriminatory. In the name of protection, governments constricted Aboriginal civil rights, controlled movement, interfered with family life, removed children, restricted access to alcohol, and confined many people to reserves and missions that were run like prisons or other similar institutions. In 1937 state and federal ministers adopted a policy of assimilation, although little was done during the Second World War. It was not until 1961 that a clear statement of policy was agreed to by various governments. "The policy of assimilation", it was decided

means that all Aborigines and part-Aborigines are expected eventually to attain the same manner of living as other Australians and to live as members of a single Australian community, enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs as other Australians.ⁱ

But the statement was rapidly overtaken by changing circumstances. Assimilation came under attack from both white Australians and Aboriginal critics. Australia itself was beginning to feel the impact of massive post-war migration from all parts of Europe. Assimilation no longer accorded with Aboriginal intentions, current community thinking or demographic and cultural realities. Policy statements made later in the 1960s emphasized the element of Aboriginal choice, but there were no significant changes in direction until the election of the Whitlam Labor

government in December 1972, bringing to an end 23 years of Conservative rule.

The new government rejected the surviving aspects of the white Australia policy, adopted a policy of multiculturalism in relation to immigrant communities, and greatly increased federal government involvement in Aboriginal affairs. Prime Minister Whitlam declared that his government's policy would "restore to the Aboriginal people of Australia their lost power of self-determination in economic, social and political affairs."ⁱⁱ His minister for Aboriginal affairs, Senator Cavanagh, sought to

remove the disadvantages generally faced by Aboriginal Australians in the fields of housing, health, education, job training and employment opportunities and to make it possible for Aboriginal communities and individuals to develop as they wish within the overall Australian society. In all these fields, the importance of Aboriginal involvement and identity is paramount.ⁱⁱⁱ

The Whitlam government established a new department of Aboriginal affairs within a fortnight of taking office, and over three years greatly expanded expenditures on a wide array of new programs. Other developments — discussed more fully later in this paper — included legislation to enable Aboriginal communities and organizations to incorporate themselves, conduct their own affairs and receive government funding; the establishment of the Aboriginal Land Rights Commission to recommend on ways to grant land to traditional owners in the Northern Territory; the creation of a National Aboriginal Consultative Committee of 41 elected members; and the setting up of the Aboriginal Land Fund Commission and the Aboriginal Development Commission, which provided funds for the purchase of land and establishment of commercial enterprises.

Self-Management/Self-Determination

The Whitlam government formed the National Aboriginal Consultative Committee (NACC) early in 1973. It was an elected body based on 41 one-member electorates giving representation to 800 communities. The first meeting was held in December 1973. The NACC had a short, troubled life. The organization was defective, the brief from government confused and contradictory. The full committee met only for one- or two-week-long meetings annually. It depended entirely on the department of Aboriginal affairs for the timing, servicing and funding of its meetings. Rivalry developed between the two organizations, and the NACC could do little more than pass motions that the government could notice or ignore as it chose. A committee of review set up by the

incoming Fraser government in 1976 concluded that the NACC had

not functioned as a consultative committee and, to that extent, has not been effective in providing advice to the government... We attribute the absence of effective consultation largely to the failure on the part of the previous [Whitlam] government to provide a clear statement of aims, duties and procedures — the disinclination of the elected members to accept a role that was merely consultative, and the state of mutual hostility that prevailed between the NACC and the DAA from the beginning.^{iv}

The NACC was replaced in 1977 by the National Aboriginal Congress (NAC), which was to be "a forum in which Aboriginal views may be expressed...on the long-term goals and objectives which the government should pursue and the programs it should adopt in Aboriginal affairs."^v Elections were held nationally in December 1977. Those elected sat on state branches, which in turn elected a ten-member national executive. But problems dogged the new organization. Members were deeply dissatisfied with their purely advisory role; they were expected to consider only questions referred to them by the minister. When the NAC commented on issues of national importance, relations with the government deteriorated. The incoming Hawke government commissioned the distinguished retired bureaucrat, Dr. H.C. Coombs, to report on the role of the NAC, replicating the action of the Fraser government eight years earlier in relation to the NACC. Coombs believed that the NAC had failed to represent Aboriginal opinion adequately because its mechanisms were incompatible with Aboriginal political processes. The national executive was not answerable to the bulk of the elected representatives, and they in turn were not accountable to local groups where Aboriginal political life was played out. The Congress was remote from the more traditional and isolated communities. Its purely advisory role deeply frustrated the more radical and politically aware urban Aborigines and Islanders.

The government disbanded the NAC in July 1985 and spent the next four years trying to find a new formula to incorporate Aboriginal representatives within the national political process.

The Aboriginal and Torres Strait Islander Commission (ATSIC) was created in 1989 by legislation setting out the new organization's objectives. They were to

- ensure maximum participation of Aboriginal and Torres Strait Islander people in the formulation and implementation of government policies that affect them;
- promote the development of self-management and self-sufficiency among Aboriginal and Torres Strait Islander people;

- further the economic, social and cultural development of Aboriginal and Torres Strait Islander people; and
- ensure co-ordination in the formulation and implementation of policies affecting Aboriginal and Torres Strait Islander people by the commonwealth, state, territory and local governments, without detracting from the responsibilities of [those] governments to provide services to the Aboriginal and Islander residents.

ATSIC was established in March 1990. It is governed by a board of 20 members — three nominated by the minister, 17 elected from a nation-wide Aboriginal and Islander constituency. Sixty elected regional councils were set up after elections in November 1990. The number of councils has recently been reduced to 36. ATSIC has taken over the role and functions of the old department of Aboriginal affairs and the Aboriginal Development Commission. It now has control over the budget allocation and policies previously exercised by the department. The Aboriginal commissioners have been given executive power and administrative responsibility far beyond anything considered for the NACC or the NAC.

In a position paper of February 1992^{vi} ATSIC defined its major priorities. They were

- implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody of 1991;
- implementation of a national Aboriginal health strategy;
- participation in the process of reconciliation leading to the centenary of federation in 2001 (discussed below);
- the expansion of employment opportunities for Aboriginal and Torres Strait Islander people through the community development employment project scheme (discussed below);
- the beginning of regional planning by regional councils; and
- to remove uncertainty about and define more specifically Aboriginal and Torres Strait Islander aspirations in relation to the roles and responsibilities of commonwealth, state and local government.

In her first report to the ATSIC council the chairperson, Lois O'Donoghue, noted that the commission was the "centre-piece of the governments' policy of greater self-management and

self-determination" for Aboriginal and Islander people. It wished to "secure empowerment" of Indigenous people to enable them to make decisions that affect their lives. O'Donoghue believed that ATSIC had already led to "real empowerment". This had been

reflected in decision making, in funding, in a better knowledge and understanding of the bureaucratic system and the machinery of government, the power to negotiate, increasing acceptance by state and local government, greater recognition of ATSIC both by Aboriginal and Torres Strait Islander people and by the broader community, development of communications and a national and regional network which facilitates priority and decision making.^{vii}

In relation to ATSIC's regional planning, O'Donoghue believed it would

identify [Aboriginal and Islanders'] needs, aspirations and priorities, develop and guide implementation of appropriate strategies that reflect regional priorities, integrate the planning capacities and responsibilities of service providers and establish the basis for the allocation of government resources.^{viii}

Between 1992 and 1994 the process of regionalization has accelerated rapidly. In the financial year 1994-95, the regional councils will spend more than the national ATSIC office. Regional expenditures climbed sharply from \$A155 million in 1992-93 to \$A231 million in the following year and will increase by a further 120 per cent to \$A509 million in 1994-95.

The process of decentralization has evolved most fully in the Torres Strait. In July 1994 the Torres Strait Regional Authority was established to administer all programs funded through ATSIC. It receives its own budget allocation, which amounted to \$A31.6 million in 1994-95.

As well as a series of regional councils ATSIC embraces the Office of Indigenous Women (OIW), which is charged with providing a "gender specific perspective on policy and program development" to ATSIC as well as other relevant commonwealth, state and local government bodies. It examines policy and program development to ensure

the incorporation of specific conditions and requirements in policies, programs and projects to accommodate needs and key priorities of Aboriginal and Torres Strait Islander women.^{ix}

The office is responsible for co-ordinating a women's initiative program aimed at providing women with the opportunity to design and manage their own projects, improve their access to services and encourage greater participation in the decision-making process.

ATSIC's expenditures for 1993-94 were \$A884 million, which represented approximately one per cent of total federal outlays. A further \$A478 million was spent by other departments, including the departments of employment, education and training and of health, housing and community services. The principal programs administered by ATSIC were the National Aboriginal

Health Strategy, the Community Development Employment Project, community housing and infrastructure.

ATSIC plays a major role in the implementation of the National Aboriginal Health Strategy, established by the commonwealth government in 1990 to provide \$A232 million over five years to lift present health and infrastructure standards in Aboriginal and Islander communities. During 1990-91 the commission funded 150 projects, including 62 community-controlled Aboriginal health services, 11 of which also provided dental services, 18 clinics providing basic health services and 4 trachoma programs.

ATSIC's largest single program provides employment opportunities within Aboriginal communities under the Community Development Employment Project (CDEP). Created in response to demands from remote communities and continuing government concern about structural employment, the scheme allows incorporated communities to use the money due to members as unemployment benefits to create local employment that is directed to a wide range of local projects. The scheme has grown rapidly, with expenditures rising from \$A27 million in 1985-86 to \$A252 million in 1993-94. There were 20 participating communities in 1985-86, 166 in 1990-91, and 185 a year later. In 1994 there were 222 participating communities with more than 24,000 workers. Many more communities have indicated they wish to participate in the scheme. Outlining the popularity of CDEP, ATSIC chair O'Donoghue explained that the scheme

does not only provide employment, work experience and training in areas where there is little or no access to the labour market. It offers Aboriginal and Torres Strait Islander communities the opportunity to determine their own priorities, and in many instances has had a marked impact on improving morale and self-esteem, reducing alcohol abuse and lowering the incidence of family violence.^x

The community housing and infrastructure program is the second largest scheme administered by ATSIC and absorbed \$A199 in 1992-94. The main purpose of the program is to provide grants to community housing organizations for the construction

of adequate and appropriate rental housing in urban, rural and remote areas where there is no government housing, and for the construction of shelter-type housing when preferred by the community.

The infrastructure program provides grants to accelerate the provision of essential services

...to severely disadvantaged rural and remote...communities, including those living in town camps, outstations and [communities] on pastoral properties.^{xi}

ATSIC also operates a housing fund that finances home loans at concessional interest rates for Aborigines and Islanders. Between 1980 and 1990 ATSIC and the earlier Aboriginal Development Commission provided 3700 homes at a cost of \$A81.3 million. Home ownership increased during that period to 26 per cent of the indigenous population, compared with 65 per cent of the total Australian community.

There is no doubt that ATSIC has proved more successful than its two abortive predecessors. It has significantly increased direct Aboriginal and Islander involvement in the administration of programs and the delivery of services. The second elections were held in December 1993. There was an increase in both the number of candidates and voter participation, which reached 45,000, or 3.1 per cent of all potential electors.

Its capacity to devolve decision making effectively to the regional councils has yet to be determined. It still operates in ways that run counter to indigenous political life. Rigid administrative and accounting procedures imposed by government create enormous difficulties for local communities. What is more, the commission is still the creature of government, which determines levels of funding and shapes the broad outlines of policy. But during the great national debates over the *Mabo* case in 1993, ATSIC played a major role in co-ordinating Aboriginal involvement and in presenting an authoritative voice to the broader community. ATSIC provides Aborigines and Islanders with a significant degree of self-management. It does not provide for self-determination. Aboriginal initiative has, however, found creative outlets in myriad community-based organizations.

Aboriginal Organizations

It is estimated that there are about 1500 incorporated Aboriginal communities and organizations in Australia, ranging from local clan-based communities to specialized agencies dealing with legal matters, housing, health and the media. Much of the time and creative energy of Indigenous Australians goes into these organizations, which in turn provide an important training ground for both men and women in organization and administrative skills. Most of the organizations arose from local initiative and are run by various forms of committees and boards. Most depend on funding from one or other level of government, and the money often comes with strict guidelines for its expenditure and accountability. But to see Aboriginal organizations as merely service deliverers, as tools of government policy, greatly underestimates their cultural and political

importance. They are the indispensable building blocks for future indigenous autonomy.

The prototype for independent, urban-based organizations is Sydney's Redfern-based Aboriginal legal service, founded in 1970. At the time the Aboriginal community was constantly harassed by the police. Large numbers of arrests were made and charges laid for summary offences like drunkenness, offensive behaviour or unseemly words. Typically, Aborigines pleaded guilty and were convicted. There was no legal aid, and few people were ever represented in court. A group of young activists began to monitor police behaviour and to photograph their operations. They were supported by sympathetic trade unionists and academics. Lawyers offered their time in a volunteer capacity to arrange bail and to interview and represent clients. In 1971 the office of Aboriginal affairs (the forerunner to the federal department of Aboriginal affairs) provided grants to employ a full-time solicitor and other staff, and a shop-front office was opened. Two years later an all-Aboriginal council was elected to run the service.

There are currently 17 independent community-based Aboriginal legal services (ALSS) in Australia — seven in Queensland, three in New South Wales, three in the Northern Territory, and one in each of the other states. Each service receives funding from the government but is responsible to a local board, which has the power to hire and fire staff. Many of the country's brightest and most idealistic young lawyers have served their apprenticeships with the Aboriginal legal service. The bulk of the work is in providing representation in the lower courts, but the services have also taken on constitutional and land rights cases. A national organization, the National Aboriginal and Islander Legal Service Secretariat (NAILSS), was established in 1982. It has provided the main focus for demands for legislative and administrative reform. But the organization has had an interest in international issues from its foundation, sending delegates to the United Nations Working Group on Indigenous Populations at Geneva. The founder of the Redfern Aboriginal legal service, Paul Coe, has written that the ALSS and NAILSS

continue today to work for the realization of the right of self-determination for Aboriginal people in all courts. They do this by advising them on their rights at law in civil and criminal disputes, fighting adverse development proposals, conveying property and business agreements or lobbying state and federal agreements for a better deal for Aboriginal prisoners and the poor or by representing the most fundamental indigenous concerns at the United Nations. The ALS's main objective is to assert to state and federal governments that, as colonial governments, they must come to grips with and acknowledge the rights of Aboriginal people to the basic human right of self-determination.^{xii}

Redfern also gave birth to the first Aboriginal community-controlled health service that

was free, accessible and acceptable to its clients. There are now 70-odd services operating nationally as well as ten Aboriginal-controlled dental services and almost 50 programs and services addressing alcohol and other drug problems. The services are funded by ATSIC, by state governments, and by donations. They are independent from each other and are responsible to the local community through boards of directors elected at annual meetings. In addition to salaried doctors, nurses and Aboriginal health workers, they employ counsellors, public health workers and administrators. Preventive health care is emphasized, with the services adopting nutrition programs and providing health education, welfare assistance and the dispensing of pharmaceuticals. Some services go further, providing child care, family support and bus services. In the six-month period from 1 July to 31 December 1989 doctors, nurses and health workers provided 240,000 services to Aboriginal and Islander clients. Assessing the value of the health services, the federal government's Aboriginal health strategy working party concluded that

while there is a lack of sufficient hard evidence the working party believes that the Aboriginal controlled Aboriginal health services have made a significant contribution to the improvement in the health status of Aboriginal people... The existence of such services resulted in Aboriginal people actively seeking medical assistance before the condition became acute... Anecdotal evidence was presented to demonstrate the effect that easy access has had in improving the health status of communities.^{xiii}

While the initiative for the establishment of legal and medical services came from inner suburbs of the capital cities, the first Aboriginal media organization was the Central Australian Aboriginal Media Association (CAAMA), which was incorporated in Alice Springs in May 1980. Since then more than 50 other Aboriginal media groups have been established. CAAMA itself delivers radio and television services via satellite across four states, covering an area the size of western Europe. In the Torres Strait, the local media association (TSIMA) operates a radio service and publishes a newspaper. As a result of the Broadcasting in Remote Aboriginal Communities Scheme (BRACS), introduced in 1990, 15 media groups were funded to provide radio and television facilities in remote communities. By the end of 1991, more than 80 remote Aboriginal and Torres Strait Islander communities had been provided with access to and control of television and radio services in their own localities. The communities are able to receive television and radio via satellite and to produce and insert locally produced culturally appropriate material.

In the remote north of South Australia, Ernabella Video and Television records and transmits a weekly television program in Pitjantjatjara for the local community. Warringari

Media Association in Kununurra, Western Australia, produces radio programs for distribution through the ABC network, serving the sprawling East Kimberleys. While it is difficult to make an exact assessment of the collective output of the Aboriginal media organizations, available data suggest that in 1990, more than 270 radio broadcast hours were being produced each week. Some media organizations have also set up production units. CAAMA's Imparja Television Pty Ltd. produces programs in the central Australian languages Warlpiri, Pitjantjatjara, Arrente, Luritja and Alyawarre. The first national Aboriginal rock festival, 'Sing Hard, Play Strong', was broadcast live from Darwin to hundreds of Aboriginal communities through Aboriginal media organizations. While the proliferation of indigenous media organizations was facilitated by government policy and funding, the creative impetus came from within the Aboriginal and Islander communities, which wished to preserve and strengthen their own culture. Addressing the first community meeting called to discuss the creation of CAAMA, John Macumbe said,

we go home and switch on T.V. And what do we see? White fellas talking in English. You turn on the radio and again only white fellas speaking in English. What would the white fellas do if they only saw black faces on their T.V. sets and had to listen to Pitjantjatjara or Arrente all day? They wouldn't like it. Well we don't like not seeing our people on T.V. either. What will happen to our kids? They never see you, they never see me, or any of us on T.V. Sometimes they see the police assisting us, but that's about it. Sooner or later, our kids will get the idea that their people and their language are rubbish. We have to find a way of running our own T.V. and radio services, we have to have a say as well.^{xiv}

The incorporation of indigenous organizations and the great increase of government expenditures on Aboriginal programs after 1972 allowed communities all over the country to establish housing associations to buy and build houses. They vary widely in size, function and sophistication. Some manage a handful of properties; others have become significant land owners in small communities as well as providing employment and training in the skilled building trades. The striking success of some of the multi-function housing associations was commented on in the report of the Royal Commission into Aboriginal Deaths in Custody. Associations in northwest Queensland, it was noted,

have provided important structural components to the formal social organization of these town communities, as well as the first opportunities for formal leadership to develop since early contact. The Aboriginal organizations of this period can be regarded as a type of cultural innovation by which people gained some limited freedom to express their cultural aspirations in their own terms and idioms.^{xv}

Among the most important and influential Aboriginal organizations are the land councils,

particularly those established in the Northern Territory as a result of the 1976 *Aboriginal Land Rights (Northern Territory) Act*. Of those, the northern and the central land councils are the most important. Administrative funds for efficient secretariats are provided from mining royalties. The councils perform many functions. They make and pursue land claims, protect sacred sites, control access to Aboriginal land, conduct negotiations with mining companies and other commercial enterprises, and take responsibility for environmental management. *Land Rights News* is a major bi-monthly publication produced jointly by the central and northern councils. Because of their statutory status and reliable cash flow, the two land councils have become among the most professional and effective of Aboriginal organizations. Since 1982 a National Federation of Land Councils (NFLC) has provided a vehicle for national activism and international representation. The NFLC is represented every year at the meeting of the United Nations Working Group on Indigenous Populations.

Aboriginal Homelands

While urban activists were establishing medical and legal services, a comparable movement was under way in the most remote and traditionally oriented communities — the return to homelands and the creation of so-called 'outstations'. It represented an historic, Aboriginal-inspired reversal of the policies of centralization pursued over several generations, often with the best of intentions, by governments and missionary organizations.

In an early history of the homelands movement Coombs, Dexter and Hiatt observed that ten years ago [i.e., 1970] most Aborigines in northern and central Australia were living in, or near, European settlements: townships, cattle stations, church missions or government outposts... A few small communities in Arnhem Land had decided not to move into the nearest mission station. But everywhere else it seemed that Aborigines were being steadily drawn into the vortex of white society.^{xvi}

Within a few years of the last remaining nomadic groups 'coming in' to white settlements, the whole movement was being thrown into reverse.

In its 1987 study of the homelands movement, the Aboriginal affairs committee of the House of Representatives defined outstations as

small, relatively permanent, decentralised communities consisting of closely related individuals which have been established by Aboriginal people with a strong traditional orientation.^{xvii}

Outstation communities average about 30 residents. Movements between the homeland and the nearest settlements are common, and fluctuations in size occur frequently throughout the year, depending on seasonal climatic conditions, ceremonial activity, school holidays and levels of supplies.

Estimates of the number of outstations have varied between 500 and 700, with the number of residents ranging from about 13,500 to 17,500, or up to 8 per cent of the nation's Aboriginal population. Most of the outstations are in North Australia, with the largest number in the Northern Territory.

The motives for the movement out to the homelands are often complex and combine the desire to live on one's own country with reaction against many aspects of life on the large central townships or missions. Coombs et al. believed the decision to establish outstations represented

an attempt by the Aborigines to moderate the rate of cultural change caused by contact with European ways and commodities and to re-establish a physical, social and spiritual environment in which traditional components will be once more dominant.^{xviii}

The larger settlements were often strife-torn, with people of disparate tribal groupings thrown together in close proximity. Conflict between those on whose land the settlement had been established and the interlopers was endemic. Alcohol abuse and fighting were widespread. Many communities had acute problems with petrol sniffing and other forms of delinquency among children and adolescents. Coombs et al. noted that the most frequent and consistent observations about outstations are that

they are more peaceful than the settlements and missions and the morale is better. In some cases an initial euphoria has been followed by a degree of frustration and dissatisfaction... But the general impression is that outstation people are more cheerful, contented, energetic and relaxed than their counterparts on the settlements.

Numerous observers have remarked on a dramatic change in bearing and manner that occurs when men leave the settlements and missions and return to where they feel they belong.

This has frequently been consolidated by a sense of pride in building an outstation (instead of having it built by Europeans). Last but not least, there is the stimulation of the natural environment itself. As one white female observer put it, "when I went hunting with the women, I was always impressed by the interest displayed in the environment, sky, grass, water and sand. All had messages to be read and discussed. This source of stimulation is largely missing in settlement life and nothing appears to have replaced it."^{xix}

Policy changes during the 1970s facilitated the movement out to homelands. Land rights legislation in the Northern Territory and South Australia gave title to large areas of traditional land. The House of Representatives committee found that all South Australian and well over 90 per cent of Northern Territory homelands were on Aboriginal-owned land. From 1973 onward, the federal government decided to provide financial support for the establishment of homelands with \$A10,000 foundation grants, followed up over the years with assistance with housing, water supply, transport and education. Many communities are recipients of CDEP funds. A factor of particular importance was that after 1972 large numbers of people on settlements and cattle stations began to receive social security benefits — principally age pensions and family allowances in cash. This allowed clan groupings to pool their resources and finance their exodus to their homelands.

But homelands are not problem-free. Though they represent a drive for self-determination, their very isolation means that they are heavily dependent on income derived from the state. Hunting and gathering provide at least a proportion of the food supply, and art and craft work supplies some cash income, but only 10 per cent of overall resources is derived from sources other than government grants. Originally homeland dwellers tended to be older and more traditionally oriented than the overall Aboriginal community, but this situation seems to be changing. Whether the outstations will survive the present generation remains to be seen. The extreme isolation of many homelands and the difficulties of communication make the provision of health and education services difficult and expensive. If children remain in their homelands, they may miss out on western education. If they travel away for schooling, they may not return to their homelands apart from brief holiday visits.

But whatever their present problems and further prospects, the homelands represent one of the most important and creative developments in Aboriginal Australia since the intrusion of Europeans and their civilization. The movement is one of the ways in which Aborigines have sought to achieve their own syntheses between traditional ways and introduced customs between the old and new. But neither the homelands movement nor the proliferation of Aboriginal-initiated and -run organizations can be understood fully without an appreciation of the rapid development of political ideas during the generation that separates the present from the 1967 referendum.

The Development of Political Ideology

The modern political movement can be dated to the 1930s and its origins traced to both urban communities and remote areas. Civil rights organizations grew up in Melbourne and Sydney that demanded an end to discrimination and the granting of full citizenship to Aborigines. Their activities culminated with protests during the sesquicentennial celebrations of January 1938. At much the same time, Torres Strait Islanders staged a long and effective strike against conditions imposed by the Queensland government. Further strikes and other direct action by Aboriginal stockmen followed in the 1940s and 1950s.

Political activity picked up during the 1960s. In 1963 the Yirrkala people of the Gove Peninsula in Arnhem Land, agitating against the establishment of a bauxite mine on their country, sent a petition to the federal Parliament painted on bark. Their grievances were not met, and they took a case to the Northern Territory supreme court. They lost the case in 1971. In 1966 the Gurindji stockmen walked off the Wave Hill cattle station to protest appalling social and economic conditions. Their action received extensive and sympathetic attention in the media and strong moral and financial support from trade unions, universities and many individual well-wishers.

The two most effective national organizations — the Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI) and the Aborigines Advancement League (AAL) — were founded in the late 1950s. In the early years, whites outnumbered Aborigines or Islanders at meetings and on executives. At the first meeting of FCAATSI, only three of the 30 people attending were Aborigines. The early membership was made up of trade union officials, Australian Labor Party members, radical academics and ex-missionaries.

FCAATSI sought improvements in social conditions and education and the repeal of all discriminatory legislation. A national petition, circulated in 1964-65, gained strong support for a referendum to remove the discriminatory aspects of the federal constitution. The campaign achieved the support of Prime Minister Holt in February 1967 and followed through with effective organization and publicity, culminating in the massive majority for change when the vote was taken the following August.

There was a considerable radicalization of Aboriginal opinion during the late 1960s and early 1970s. The rise of American radical Black Power movements was influential, but

Aboriginal politics should not be seen in isolation from the upsurge of many protest movements in Australia at the time. Radicalization moved in two directions. There were growing demands for land rights, compensation and self-determination. There was pressure on the major civil rights organizations to hand power over to all-black executives. After considerable bitterness, whites were ejected from leadership roles in the Victoria AAC in 1968 and in FCAATSI in 1970. Side by side with these developments, exclusively black organizations emerged. In April 1970 prominent Aboriginal leaders founded the National Tribal Council, and in February 1972 a short-lived Australian Black Panther Party was established.

But from Australia Day, 26 January 1972, all political activity focused on the so-called tent embassy, flying the new Aboriginal flag of black, red and yellow, set up on the lawns outside Parliament House in Canberra. The embassy began with a few friends from Sydney sheltering under a beach umbrella. But as the protest gained increasing media attention, young people came from all over Australia to lend their support, and a tent city grew up on the site of the original protest. With a brilliant understanding of media politics, the leaders of the embassy were able to attract extensive publicity both in Australia and overseas and support from student groups and trade unions right across the country.

The embassy marked the entry of black politics into the national mainstream, a position it has held ever since. The reaction of the Conservative McMahon government increased public interest in the protest. Gazetting of special regulations was followed by a violent confrontation between police and protesters and the removal of the tents. The overturning of the regulations in the federal court saw the embassy back in place. The leader of the opposition, the charismatic E.G. Whitlam, paid a much publicized visit to the embassy and promised support for much of its agenda, including land rights legislation. More than any other issue, land rights was thrust into the national political agenda by the activities of the embassy members.

The symbolic direct action exploited so skilfully on the Parliament House lawns in 1972 has continued to play a part in Aboriginal politics over the last 20 years. Rallies, marches and demonstrations have been used frequently all over the country in promoting or opposing one policy, decision or another. Such action was never more effective than on Australia Day, 1988 — the bicentenary of the arrival of the first fleet at Sydney. There was a large Aboriginal encampment on a bluff overlooking Farm Cove, the destination of the fleet of sailing ships that swung into Sydney harbour on the morning of January 26th. In the afternoon, Aborigines from

all over the country marched, 20,000 strong, to Hyde Park, accompanied by an equal number of white supporters. They carried banners reading 'Pay the rent', 'White Australia has a black history', 'We have survived', and 'It always was and always will be Aboriginal land'.

But 1972 was undoubtedly the high point of direct action. With the change of government that December, many Aboriginal leaders became absorbed in the proliferation of government-funded organizations, took jobs in the bureaucracy or committed themselves to training and higher education. By far the most effective pressure groups in the last 20 years have been the land councils, the legal aid services and the national umbrella organizations created by both. But many Aboriginal activists are deeply ambivalent about government funding of their organizations. Without it they could not deliver effective services to their communities. But it comes with strings attached — conditions for its use and accountability for it. And ultimately the continuity and growth of organizations depends on governmental goodwill. Circumspection often wins out over independence.

There have always been small-scale political groups that spring up in different parts of the country and survive for varying periods of time. Numerous attempts have been made to win support in state and federal elections. The most ambitious recent foray into electoral politics was mounted by the Indigenous Peoples Party, which ran candidates in both the House of Representatives and Senate elections in 1993. The results were disappointing, however, even in electorates with large numbers of Aboriginal and Islander voters. Far more indigenous electors voted for the Australian Labor Party.

The Aboriginal provisional government, founded in July 1990, is one of the most interesting recent political ventures. Launched by several prominent activists, it has already received considerable national publicity. The leading spokesman, Michael Mansell, rejects many of the premises that have underpinned previous Aboriginal political organizations. The solution, he believes, lies not in the achievement of equal rights and amelioration within the Australian state but the creation of an Aboriginal state based on existing areas of Aboriginal land and unoccupied Crown land. The relations between Indigenous Australians and the Australian government would be on a state-to-state basis. It is difficult to determine what level of support the APG enjoys in the Aboriginal and Islander communities.

Current Issues

In the last year or so the future of white/Aboriginal relations — as with much else besides — has appeared much more fluid than at any time in the recent past. Rapidly changing patterns of international relations and the fin-de-siècle mood, which waxes as the century wanes, have coloured perceptions in Australia as elsewhere. But domestic developments have also been important, especially the high court's *Mabo* decision in June 1992, the movement for constitutional reform, the rise of republican sentiment, and the establishment of the Council for Aboriginal Reconciliation. These developments will be considered in turn.

One of the distinctive features of Australian settlement was that there were never any treaties with the Indigenous people. Nor were there any negotiations about, or purchase of, land. From the beginning the settlers behaved as though the country was *terra nullius*. Whether that was ever the official view of the British government is much more open to question. But the colonial courts underpinned the popular and self-serving doctrine of the colonists. In *Attorney-General v. Brown* in 1847, the supreme court of New South Wales determined that the "waste lands of this colony are, and ever have been from the time of its first settlement...in the Crown; that they are and ever have been from that date...in the sovereign's possession."^{xx} This interpretation was affirmed in the Privy Council in 1889 and again in the Northern Territory supreme court in 1971, when Mr. Justice Blackburn determined that the common law in Australia had never recognized any form of Native title. Blackburn's decision in the Gove land rights case forced the land rights campaign from the courts into the political arena, where it remained for 20 years. The Whitlam government initiated a process for the granting of land rights to traditional owners in the Northern Territory, although the legislation was passed in 1976 by the incoming Fraser government. Since then about 30 per cent of the land in the territory has been successfully claimed. Land rights in one form or another have been granted since 1976 in South Australia, New South Wales, Queensland and Victoria, although only in South Australia are large areas of land involved.

The Hawke Labor government came to power in 1983 with the promise of national land rights legislation. After two years of discussion, a "preferred national land rights model" was released, but a year later, on the eve of an election in Western Australia, the government abandoned its commitment. But by then the case of *Mabo v. Queensland* was half-way through its long progress in the courts. *Mabo* was a Torres Strait Islander from Murray Island who sought

from the Australian courts recognition of his ownership of traditional land. The case survived the obstruction of the Queensland government and a direct attempt to legislate any traditional rights away. The final high court judgement was a legal revolution, much more sweeping in its scope and influence than even the supporters of *Mabo* imagined likely. The long-term impact may be even more significant than that of the *Calder* case in Canada, given that common law Aboriginal title was being introduced into a society that had never recognized it before, or even understood what it meant.

In the two years since the high court's decision, the *Mabo* case has become one of the most intensely debated issues of recent times. Public discussion reached a crescendo late in 1993 as the federal government's Aboriginal title bill made a fiercely contested passage through Parliament, culminating in the longest debate in the history of the Senate.

The *Native Title Act 1993* represented a comprehensive response to the *Mabo* judgement. It recognized and protected Native title while validating all existing titles. It determined that where Aboriginal communities could establish that they had a continuing association with Crown land they could appeal to a Native Title Tribunal for a declaration of their Native title. Any impairment of Native title from 1975 onward (the year of passage of the *Race Discrimination Act*) would attract compensation in the normal manner.

Following passage of the Act a Native Title Tribunal was established under the chairmanship of a federal court judge. Numerous cases are currently before the tribunal.

Conservative state governments in New South Wales, Victoria, South Australia and Western Australia have opposed the federal legislation. Western Australia passed its own legislation effectively extinguishing Native title and has challenged the federal act in the high court, which has yet to bring down its decision.

Realizing that a majority of Aborigines will be unable to claim Native title, the federal government determined to implement a social trustee package and institute a land fund. The social justice package has not been finalized. The Indigenous Land Corporation Land Fund Bill (1994) is still before Parliament. It will provide a land fund for the purchase of Aboriginal communities. The fund will receive an establishment grant of \$A200 million and \$A140 million per annum for ten years, at which point the fund is expected to be self-funding.

Having dropped its commitment to national land rights legislation in 1984, the federal government was left without credible policy initiatives. During 1988 Prime Minister Hawke

appeared to sanction the concept of a treaty, but then he retreated from the idea. When the new Parliament House was opened in Canberra in May 1988, the government submitted as its first business a resolution about white/Aboriginal relations that acknowledged that Australia "was occupied" by Aborigines and Islanders before the arrival of the British 200 years before, that they suffered dispossession and dispersal and were denied full citizenship rights before 1967.

The motion then affirmed

- (a) the importance of Aboriginal and Torres Strait Islander culture and heritage;
- (b) the entitlement of Aborigines and Torres Strait Islanders to self-management and self-determination subject to the constitution and the laws of the commonwealth of Australia; and [that Parliament]
- (c) considers it desirable that the commonwealth further promote reconciliation with Aboriginal and Torres Strait Islander citizens providing recognition of their special place in the commonwealth of Australia.

The federal opposition refused to support the motion unless the right to self-determination was qualified by the phrase "in common with all other Australians".^{xxi}

The Royal Commission into Aboriginal Deaths in Custody, which reported in March 1991, urged the need for a process of reconciliation in the last of its 339 recommendations. The commissioners called on all political leaders to

recognize that reconciliation between the Aboriginal and non-Aboriginal communities in Australia must be achieved if community division, discord and injustice to Aboriginal people are to be avoided. To this end the commission recommends that political leaders use their best endeavours to ensure bi-partisan public support for the process of reconciliation and that the urgency and necessity of the process be acknowledged.^{xxii}

The federal government established the Council for Aboriginal Reconciliation in September 1991. It is made up of 25 members — 12 Aborigines from various parts of the country, two Torres Strait Islanders, and 11 white Australians representing government, the trade unions, business, mining, rural industry and the media. In his second-reading speech, the minister for Aboriginal affairs, Robert Tickner, outlined the main functions of the council. They were

- to promote by leadership, education and discussion a deeper understanding by all Australians of the history, culture, past dispossession and continuing disadvantage of Aborigines and Torres Strait Islanders and of the need to redress that disadvantage;
- to provide a forum for discussion by all Australians of issues relating to reconciliation

- with Aborigines and Torres Strait Islanders and of policies to be adopted by commonwealth, state and territory and local governments to promote reconciliation; and
- to consult Aborigines and Torres Strait Islanders and the wider Australian community on whether reconciliation would be advanced by a formal document of reconciliation [and] to make recommendations to the minister on the nature and content of, and manner of giving effect to, such a document.

The reconciliation council has been attacked as little more than an expensive public relations exercise. But it has retained the commitment of leading figures in both the white and the indigenous communities. It has also retained the support of both sides of federal politics. Some of the most valuable work has been done by council committees. The rural committee has brought together for discussions the Northern Territory Cattleman's Association and Aboriginal organizations to develop policies of mutual benefit. The mining committee will similarly bring together industry and community representatives to "find ways of setting up codes of conduct, resolving disputes and improving awareness in the industry of Aboriginal cultural values".^{xxiii} As befits its brief, the council remains open-minded about the need for a formal document of reconciliation, observing that

those who want such a document need to consider what form such a document must take, how it could be developed, what rights might flow from it, and who might negotiate it. The options include a covenant, a declaration, a charter, a bill of rights, an act of parliament, constitutional change and a treaty. Another option is to leave things as they are, and concentrate on improving the climate of relations without any formal agreement.^{xxiv}

The Aboriginal Reconciliation Council has completed its term of office, and a new council will be appointed by the end of 1994 for the next three years. During its three-year term the council overcame much of the cynicism that greeted its establishment. It has been able to establish the idea of reconciliation as part of the national discourse and has played an important role in raising the consciousness of the wider community about indigenous issues.

The idea of a treaty has been under discussion since the late 1970s. It was initiated by both Aboriginal and white activists. In April 1979 an Aboriginal Treaty Committee was established by a group of prominent Canberra-based citizens, including the distinguished retired public servant H.C. Coombs and the prominent poet Judith Wright. The committee set out to persuade white Australians of the need for a treaty with the Aborigines and Islanders that would

include such provisions as

1. the protection of Aboriginal identity, languages, law and culture;
2. the recognition and restoration of rights to land throughout Australia;
3. the conditions governing mining and exploration of other natural resources on Aboriginal land;
4. compensation to Aboriginal Australians for the loss and damage to traditional lands and to their traditional way of life; and
5. the right of Aboriginal Australians to control their own affairs.

In April 1979 the National Aboriginal Conference also called for the negotiation of a treaty of commitment or *makarrata*, a term from a northeastern Arnhem Land language. But the treaty movement faltered. Support was lukewarm at best within the Aboriginal community. In 1983 a Senate committee cast doubts on the practicality of a domestic treaty. The treaty committee folded up in February 1984, and the NAC itself was closed down in June 1985.

But talk of a treaty continued. There was an upsurge of interest in the idea during the bicentennial year, 1988. Prime Minister Hawke told the Labor Party conference in June that while the word 'treaty' was unimportant, it was the process that mattered; the country must "work towards some form of agreement in which the essential processes of reconciliation can and will take place".^{xxv} Prime ministerial commitment peaked shortly after when Hawke attended an Aboriginal cultural festival at Barunga in the Northern Territory. Leading Aboriginal elders presented their distinguished guest with a five-point memorandum, which the prime minister signed while media representatives looked on with cameras and sound recorders running. The five principles of Barunga were

1. the government affirms that it is committed to work for a negotiated treaty with Aboriginal people;
2. the government sees the next step as Aborigines deciding what they believe should be in the treaty;
3. the government will provide the necessary support for Aboriginal people to carry out their own consultations and negotiations;
4. when the Aborigines present their proposals the government stands ready to negotiate about them; and

5. the government hopes that these negotiations can commence before the end of 1988 and will lead to an agreed treaty in the life of this parliament.

News of the Barunga Agreement provoked a fierce attack from the federal opposition. For his part the prime minister clearly regretted his impulsive signature and rapidly retreated from the commitments. As we have seen, the whole question has been handed over to the Council for Reconciliation, which will determine whether an agreement should be concluded by 2001 and, if so, what that agreement should include.

In the last 18 months a potential avenue for reform has been opened up, with discussion beginning about reform of the federal constitution in time for the centenary of federation in 2001. An influential Constitutional Centenary Foundation, chaired by the ex-governor general and high court judge Sir Ninian Stephens, has set about preparing the way for constitutional reforms. Along with many other issues, the foundation has addressed the position of the Aborigines in Australian society. At a constitutional convention in Sydney in May 1991 it was agreed that

1. there should be a process of reconciliation between Aboriginal and Torres Strait island people and the wider Australian community;
2. the process would seek to identify what rights Aborigines and Islanders have, or should have, as Indigenous people of Australia; and
3. the reformed constitution should recognize the Aborigines and Islanders as the Indigenous people of Australia.

The rapid growth of republican sentiment in the last 18 months has quickened the pace of reform and opened up the possibility of much greater constitutional amendment. Prime Minister Keating has played a leading role in the republican crusade and at the same time has signalled that he sees an accommodation with Indigenous Australians as a major issue on the reform agenda, a key component in the re-creation of the Australian identity. But constitutional reform needs more than support from political leaders. In Australia, constitutional amendment can be achieved only under the terms of section 128 of the constitution. And that demands a referendum passed by a majority of the popular vote and a majority of states — that is, four of the six states. Ultimately the issue of Indigenous people and the constitution will be decided by the whole Australian electorate.

The question of self-determination has been a central motif of Aboriginal affairs since the early 1970s. But it has meant very different things to different people. The Australian Labor Party has paid lip service to the idea since 1972, Prime Minister Whitlam declaring that his government's policy would be to "restore to the Aboriginal people of Australia their lost power of self-determination".^{xxvi} Similar commitments were made in 1983 when the ALP returned to power, and self-determination continues to feature in government speeches and policy documents. Critics of the government argue that what is being referred to is little more than self-management — the execution of policy made by white ministers and white bureaucrats. Aboriginal activists place a quite different meaning on the term self-determination. At a speech to the ILO in 1988, Geoff Clark, representing the National Coalition of Aboriginal Organizations, explained:

we define our rights in terms of self-determination. We are not looking to dismember your states and you know it. But we do insist on the right to control our territories, our resources, the organization of our societies, our own decision making institutions.^{xxvii}

But principles enunciated at international meetings are one thing, the realities of Australian politics quite another. Movement toward self-determination has been slow, cautious and piecemeal, manifested in the growth of Aboriginal organizations, the homelands movement, and the expanding power and authority of ATSIC. Local government is an area where Aboriginal decision making is most effective and where the most favourable conditions exist for increased involvement and enhanced autonomy. Self-determination may well grow from the bottom up rather than from the top down. The Royal Commission into Aboriginal Deaths in Custody observed that local government was an area where there was "a possibility of introducing aspects of self-determination with relative ease."^{xxviii} Commissioner Johnston remarked that in all states/territories

there are communities with large Aboriginal populations, many of them in quite remote areas and others which are located some distance from main centres. In such settings the only people or organizations capable of organizing local government are in fact the Aboriginal communities themselves... There seems to be very little reason why distinct Aboriginal communities living in distant areas (often on Aboriginal land) should not have been recognised as bodies capable of exercising local government authority and given access to funds available for local government bodies.^{xxix}

There are more than 800 local authorities in Australia, and every state/territory has its own system of municipal government. Queensland and the Northern Territory are the only ones

that have distinct Aboriginal and Islander local government authorities. Between the two there are 73 Aboriginal/Islander councils. Generally speaking they face enormous problems with lack of experienced administrators, poor infrastructure and inadequate funding. But it is in addressing the problems of local government that some of the most creative thinking has been done.

In August 1990 the Queensland government set up a legislation review committee to examine the role and functions of the 33 Aboriginal and Islander councils. All committee members were Aborigines or Islanders. After extensive discussion all over the state, the committee produced a discussion paper entitled "Towards Self-Government", which the Canadian expert Peter Jull has called "the high-water mark in Australian thinking on indigenous policy to date".^{xxx}

The committee strongly advocated self-determination. "If the concerns of Aboriginal and Torres Strait Islander people are to be met," the committee observed,

then the people must be allowed to determine their own futures — to be 'self-determining'. The important parts of self-determination are:

- (a) Aboriginal and Torres Strait Islander people control the bodies which make decisions about their lives;
- (b) Aborigines and Torres Strait Islander people have control over their economic resource base; and
- (c) Aboriginal and Torres Strait Islanders have the right to choose their futures, whether it be integration with the white community, local or regional government, or something more.^{xxxi}

The committee outlined a blueprint for reform. Legislation would offer the communities the right to vote on their future. After a successful referendum they would then seek expert advice to draw up a constitution. Each community would decide its own degree of autonomy. They could develop constitutions to cover education, housing, health, employment, business and enterprise, recognition of customary law, administration of justice, maintenance of peace, order and safety, management of natural resources, elections and referenda, and self-governing structures. "Some communities," the committee believed,

may not wish to have control over all these matters right now, or ever. These communities can leave these matters out of their constitutions, and let another government control that matter for them. If a community changes its mind and wants to control that matter later, then the community constitution can be changed by referendum.^{xxxii}

Another example of where local problems have provoked creative answers is the Tangentyere Council in Alice Springs, which represents the 'town camps' and has set up an

Aboriginal authority that parallels the white-controlled town council and that provides a wide range of services — traditional local government ones, but many others as well, including

- a works department with about 30 employees based in a large workshop;
- an architectural department with architects who provide intense consultation with clients and monitor post-occupancy problems, among normal services;
- a body of Aboriginal housing officers and homemakers who consult with the residents in individual camps, facilitate camp decision making and assist or report on a wide range of problems that have an impact on the housing stock. These workers in turn have back-up from social workers;
- a landscaping service concerned with climatic and dust control and the provision of edible plant foods to improve health; and
- direct and indirect provision of Aboriginal schooling, pre-schooling and after-school activities for town camp children. Other social services for adults are also provided, including a women's officer and old peoples' services.

Tangentyere was highly praised by deaths in custody royal commissioner Eliot Johnston, who believed that it "represents a valuable model of how an alternative administrative and service delivery organization can work".^{xxxiii} It would appear, he concluded,

that all the aims of community government and Aboriginal participation in local government schemes, as tried and proposed around Australia, are successfully met by this co-operative arrangement between a town council and an Aboriginal community-based organization which adheres to its policy of autonomy, self-determination and self-management.^{xxxiv}

But the most concerted attempt to achieve regional autonomy has come from the Torres Strait. The Islanders seek self-government and a degree of independence both from state and federal governments and from Aboriginal-dominated bodies like ATSIC. The *Mabo* decision has increased the pressure for change, and Islander leaders are examining closely a number of relevant models — the relationship between NUI and New Zealand, the plans for Nunavut in the Eastern Arctic, and Norfolk Island. Few Australians appreciate that external territories like Cocos Island and Norfolk Island already have a significant degree of legal and political autonomy. In 1978 the federal government established an elected assembly on Norfolk Island that has almost complete powers of internal self-government. It has all the powers of local government, most of

those of state governments, and many of those of the federal Parliament. But any movement of Torres Strait in the same direction would face considerable political and constitutional barriers. The creation of a new state in the far north of Queensland or the shift to become an external territory of the commonwealth would depend on the approval of the state parliament and ultimately the people of Queensland. Nevertheless it seems likely that the Torres Strait will provide the prototype for the development of regional autonomy for Indigenous Australians. Island leaders see the establishment of the Torres Strait Regional Authority as merely one step toward the goal of regional autonomy.

The present decade, which opened auspiciously with the rejection of *terra nullius* as the foundation of Australian law, is certain to see significant developments in the relations between Indigenous Australians and the wider community. The final outcome cannot be predicted. There is a wide range of opinion about desirable developments, and the Indigenous community is as divided as the rest of the population. In any survey of the range of opinion, a number of major positions become apparent.

Conservative Australians — and this would include significant numbers of Liberal/National Party politicians — still adopt an assimilationist view, although they now accept the cultural diversity of contemporary society. They agree that more should be done to overcome Aboriginal disadvantage, but they are hostile to positive discrimination. They are strongly opposed to any talk of autonomy, self-determination or separation. "In our multi-cultural country," they say, "all groups should be treated alike."

Balancing these ideas is the cautious, pragmatic reformism of the bulk of the ALP politicians at the state and federal level. These views would also have widespread support in the general community. Aborigines, it is felt, should be encouraged to preserve their culture and traditions, to gain control over their own organizations, and manage their own affairs. But they should not seek institutions, or adopt an ideology, that leads them toward separation. Aborigines should not be assimilated; rather, Australian culture should increasingly become a 'creole' one, reflecting both European and indigenous elements. In his speech at Redfern in December 1992 to launch the International Year for the World's Indigenous People, Prime Minister Keating said,

we are beginning to more generally appreciate the depth and the diversity of Aboriginal and Torres Strait Islander cultures. From their music and art and dance we are beginning to recognize how much richer our national life and identity will be for the participation of Aborigines and Torres Strait Islanders. We are

beginning to learn what the Indigenous people have known for many thousands of years — how to live with our physical environment. Ever so gradually we are learning how to see Australia through Aboriginal eyes.^{xxxv}

Aboriginal reformers divide into two groups on the question of sovereignty. Many — and probably a majority — seek the maximum degree of self-government within the nation state — "a unique place where Aboriginal people have guaranteed rights within one nation",^{xxxvi} as Cape York Land Council organizer Noel Pearson has described it. Members of the Aboriginal provisional government go further and advocate the establishment of an Aboriginal state, although they are remarkably vague about how that objective might be achieved. "The APG," wrote Loretta Kelly, "does not strive for accommodation within the commonwealth, but independence."^{xxxvii}

Ultimately the future of Aborigines and Islanders will be determined as much by events outside, as by those inside the country. The fate of Indigenous people within the international community and under evolving international law will have a major impact on what happens here, as will the whole question of the future of nation-states and their relations with the great array of minority groups that cluster restively within their borders.

Notes

ⁱNative Welfare Conference, Commonwealth and State Authorities, *Proceedings and decisions* (January 1961).

ⁱⁱDepartment of Parliamentary Library, *Aboriginality and Aboriginal Rights in Australia* (Canberra: 1992), p. 15.

ⁱⁱⁱ*Aboriginality*, cited in note .

^{iv}L. Hiatt, *Australian Committee of Inquiry into the Role of the National Aboriginal Consultative Committee* (Canberra: AGPS, 1976), p.45.

^vRoyal Commission into Aboriginal Deaths in Custody, *National Report 11* (Canberra: AGPS, 1991), p. 530.

^{vi}ATSIC, *Reconciliation, Social Justice and ATSIC* (Canberra: 1992).

^{vii}*Reconciliation*, cited in note , p. 7.

^{viii}*Reconciliation*, p. 7.

^{ix}*Reconciliation*, p. 32.

^x*Reconciliation*, p. 17.

^{xi}*Reconciliation*, p. 19.

^{xii}*Encyclopedia of Aboriginal Australia* (Canberra: AIATSIS, forthcoming).

^{xiii}NAHSWP, *A National Aboriginal Health Strategy* (Canberra: DAA, 1989), p. 68.

^{xiv}John Macumbe, quoted in *Encyclopedia of Aboriginal Australia*, cited in note .

^{xv}*National Report*, cited in note , p. 472.

^{xvi}H.C. Coombs, B.G. Dexter and L.R. Hiatt, "The Outstation Movement in Aboriginal Australia", *AIAS Newsletter* 14 (September 1980), p. 16.

^{xvii}Parliament of Australia, House of Representatives, Aboriginal Affairs Committee, *Return to Country: The Aboriginal Homelands Movement in Australia* (Canberra: AGPS, 1987), p. 4.

^{xviii}*Return to Country*, cited in note , p. 5.

^{xix}"The Outstation Movement", cited in note , p. 19.

^{xx}J. Legge, ed., *NSW Supreme Court Cases*, two volumes (Sydney: 1896).

^{xxi}F. Brennan, *Sharing the Country* (Ringwood: Penguin, 1991), p. 84.

^{xxii}*National Report*, cited in note , p. 65.

^{xxiii}Council for Aboriginal Reconciliation, *Making Things Right* (Canberra: CARC, 1993), p. 19.

^{xxiv}*Making Things Right*, cited in note , p. 12.

^{xxv}*Sharing the Country*, cited in note , p. 82.

^{xxvi}*Aboriginality*, cited in note , p. 15

^{xxvii}*Sharing the Country*, cited in note , p. 122.

^{xxviii}*National Report*, cited in note , p. 542.

^{xxix}*National Report*, cited in note , p. 542.

^{xxx}P. Jull, Letter to the Chairman, Legislative Review Committee, 10 September 1991.

^{xxxi}Legislative Review Committee, *Towards Self-Government: A Summary of the Discussion Paper* (Brisbane: August 1991), p. 4.

^{xxxii}*Towards Self-Government*, cited in note , p. 5.

^{xxxiii}*National Report*, cited in note , p. 473.

^{xxxiv}*National Report*, cited in note , p. 36.

^{xxxv}*Aboriginal Law Bulletin* 3/6 (April 1993), p. 5

^{xxxvi}*Aboriginal Law Bulletin*, cited in note , p. 17.

^{xxxvii}*Aboriginal Law Bulletin*, p. 12.