

Indigenous Voice proposals.

I would like to make a few comments about the Indigenous Voice proposals. At the outset, the co-design process appears to have been very democratic within the Aboriginal and Torres Strait Islander (ATSI) community. This is now being further enhanced via public consultation.

I have a few preliminary observations, concerns and questions.

Why is there a need for a “Voice”?

It is not clear to me why there is a need for a “Voice”. While it is unquestioned that Aboriginals were the first inhabitants from about 65,000 years ago, and probably continued to arrive at least until the land bridge between Australia and Papua disappeared about 6-8,000 years ago, I am not sure that warrants a separate ‘Voice’. However, the lack of progress on “Bridging the Gap”, and the *reported* levels of alcohol and drug use, domestic violence, school absenteeism and child abuse in remote communities, all would point to the need for an adjustment to current policy development and implementation processes, particularly in view of the billions of dollars that have been invested in trying to remedy them already. A “Voice” may be the adjustment necessary.

Overall concerns

One concern is that, with full blooded aboriginals making up 0.3 % of the population, and those who ‘identify’ as Aboriginals making up about a further 2.5 %, the response needs to be proportionate. Setting up a “Voice” for a relatively small segment of the community will create expectations that their views will be accepted and that any action necessary will be given some priority both in funding and timeliness. That must be managed by ATSI leaders, or a degree of unrest and angst may eventuate.

Secondly, the precedent established in having a ‘Voice’ for a relatively minor percentage of the population, may bring calls for further “Voices” from other minorities. This needs to be resisted as it could lead to further fragmentation of the nation and be seen as divisive.

Who should have input to the “Voice”?

All Australians, including ATSI, are represented by MPs or other representatives at the Federal, State and Local level. Further, those ATSI living in cities and towns have access to all the facilities – education, health, law & order, welfare – that are available to all Australians. Most importantly, the issues outlined above are predominantly present in remote communities. If the issues arise in cities or towns, there are health, law & order, and counselling services readily available.

Accordingly, I would *initially* exclude city and possibly, town-based ATSI from the Voice as we are then more likely to focus on the main issues i.e., those in remote communities. It would also alleviate any claims other minorities may make to have their own “Voice”, and it

would reduce the costs of these proposals which, as they stand, will be considerable. However, I would make an exception to this proposal, in that, some city/town based experts e.g., Professor Davis, Noel Peterson, Jacinta Price and some others of those involved in the Co-design process would add invaluable input, as appointees to the National Voice.

The Proposals for a National Voice.

- (a) Membership: I would prefer the “structurally linked’ proposition, as a direct vote will inevitably result in a heavy city/town-based makeup of the Voice, and naturally, too much focus on city/town-based issues. I am not suggesting any ‘bad faith’ on the part of city/town-based members, but we need to focus on the obvious priority issues which are predominantly those issues in the regions. Accordingly, I would prefer membership being drawn from Regional Voices only until those major Regional issues are fully addressed.

If city/town based ATSI are to be included, then the membership from each state must include one Regional based member (as well as the gender balance proposed). As noted above the appointment of 2 people with the experience and skills of Professor Davis, Noel Peterson et al is supported.

- (b) The two-way link between the National and Regional Voices is obviously supported, but timeliness and costs will be issues to be addressed.
- (c) Numbers and ‘gender balance: Large committees can be very unwieldy, costly and inefficient, and the question remains as to whether the issues to be addressed are so different in each state and ‘region’ as to require membership from each state and from 25-35 regions. I suspect not. As for ‘gender balance’’: normally I would view that through a ‘political correctness’ prism, but, given the reported domestic violence and child abuse issues, it is a sensible idea.
- (d) ACT and Torres Strait membership. I am ambivalent about ACT membership, but absolutely agree that Torres Strait islands should have *at least* one member given the historical differences between Aboriginal and Torres Strait peoples.
- (e) Terms: I have a strong preference for a half membership change each 4 years. It is less costly than the alternative and ensures a degree of continuity.
- (f) Policy bodies and expert advice: There is a danger here that several semi-permanent ‘expert’ policy bodies or committees could be established and then assume “a life of their own”. However, I accept that expert advice should be obtained where necessary to help form the Voice’s views, so a suitable, efficient means of obtaining that advice

is warranted. I'm not sure a separate standing body is required as the expertise sought may differ from issue to issue. A Panel of experts is preferred and supported.

(g) Legal Form: I have no particular preference.

(h) Role, functions: These are supported in principle, but there is a significant danger that the consultation with State and Regional bodies will become too bureaucratic – unwieldy, costly, and not timely.

My comments about managing expectations are stressed. The Voice represents only 2.8 % of the population, so its expectations and those of the ATSI population need to be balanced.

(Further, an initial test of the effectiveness of this overall “Voice” Proposal will be the “Voice’s” determination of ‘priority issues’. At some point, it must be recognised that a major cause of the issues confronting remote communities is that they are just not *economically* viable and that is unlikely to change. A scheme providing transport to and from employment, counselling, or medical services, while also providing living away from home allowances for employees might assist. The scheme could be devised in such a way as to preserve any Native Title rights.)

(i) Parliament and Government: The narrowness of the range of laws on which the Government is obliged to consult is wholeheartedly supported. Most importantly, the non-justiciability of decisions is highly supported particularly if AD(JR) applications are also not allowed. While Transparency is desirable, the establishment of yet another Parliamentary Committee should be avoided. Surely one of the current committees can undertake this function.

(j) Disability and Youth Advisory Groups: I do not support these proposals but would suggest that issues substantially relating to disabled or young ATSI be addressed through the Panel of experts or through Local and Regional input.

Local and Regional Voices

I agree that input from people ‘on the ground’ at Local and Regional level is highly desirable, but question whether the current proposals are going to be too costly, too slow, and too unwieldy overall. Again, I question whether the issues confronting ATSI peoples vary to such a large extent across Australia as to warrant so much ‘representation’ by 25 to 35 groups. *Implementation* of solutions at a Local level would benefit from input of course.

I would recommend that differing views between Local ‘Voices’ within the one State or across States all be presented to the National “Voice” for its final decision, rather than going through some very time-consuming process of trying to resolve the differences at the Local or State level.

I have a few concerns with the proposal for Local and Regional “Voices”.

- a) The tone of the proposals is unnecessarily “assertive” and quite prescriptive in expectations of Government while being overly flexible in expectations of Local and Regional “Voices”.
- b) The roles of the Local and Regional “Voices” are *advisory*. The idea of ‘*shared decision making*’ is not supported and seems at odds with the role the National Voice has adopted. It would also purport to assume a role that is the *legal* responsibility of Government under the laws it administers. In other words, Voice members, who are not employees of Government, cannot legally make decisions that emanate from the laws the Government administers. The section headed “Shared decision making” should be deleted or rephrased as ‘Advisory’.
- c) There does not seem to be any limitation on the numbers of people to be involved in each region’s ‘Voice’ – an issue that must be addressed as it will impact timeliness and costs.
- d) Similarly, while a ‘one size fits all’ approach may not always work (as stated), there should be some commonality in approach for efficiency and effectiveness reasons, rather than just drawing on ‘the varying practices of communities’ regardless of their efficiency.
- e) Under the section “Advice to governments and others”, the scope of the proposal has been considerably expanded to include all governments and *businesses*. This should be modified as that is not within the scope of providing advice to the Federal Government only, or at most, to Federal and State Governments if the State Governments agree.
- f) I note that ‘funding’ itself is considered “out of scope’. All government initiatives, including this (potentially quite expensive) Proposal, should be costed. I realise that it would be difficult to do so when there are various permutations up for consideration, but the final proposals must include costings, and the specific costs involved – travel, secretarial(?), salaries for Voice members(?) etc etc. It will also need to identify the sources of funding – (a) is it coming out of current ATSI funding, or (b) will it be new Government funding, or (c) will it be funded out of mining royalties being received by Aboriginal groups? There also should be a guarantee that all funding is properly accounted for under current accounting standards and (externally) audited annually.
- g) Under “Principle: Empowerment: Again, this purports to give ‘Voice’ members a decision-making role in Government functions which may be illegal depending on the decisions being made. An advisory role only is supported.

- h) While “Inclusiveness” is supported in principle, the way the ‘inclusive participation’, ‘cultural leadership’ and “community led design’ are worded, the advisory role of the “Voices’ are highly unlikely to be timely, nor do I agree that it is up to communities *solely* to determine ‘implementation pace’, as what is being delivered will be a Government program.
- i) Again under “Transparency and Accountability’, there is an assumption that the ‘Voices’ can be decision makers (‘Share responsibility and accountability’) under Government administered laws. It can’t. The Government is responsible for, and accountable for delivery of Government programs. The Voice is responsible for and should be accountable for giving timely, representative advice to the National Voice or the State Governments (If the State Governments agree to be included in the overall “Voice” proposals).
- j) Under “how does this work in practice”?, there seems to be some confusion. The ‘National Voice’ is the only ‘Voice’ to deal with the Federal Government in terms of laws and policies. There may be some role for Local and Regional ‘Voices’ to deal with Federal Government in the implementation of programs, but they may not be the decision makers.
- k) The “Local and Regional Voice governance structure’ is too open ended and far too flexible. Some consistency is needed, particularly if salary or travel cost are to be met by others. It contrasts with specific ‘requirements’ of Governments including the requirement for ‘systemic transformation of government’s ways of doing business’’. (The Voice covers 2.8 % of the population. The Government needs to do business with 100 % of the population. However, some flexibility may be warranted at Local level depending on cost and deliverables being met.).
- l) In Fact Sheet 4 there are two options proposed for how the recognition process (of Local and Regional Voices) would work. I have a strong preference for an independent review.

Summary:

In summary my main points are:

1. While the proposals are very democratic, I fear that the costs involved will not justify this level of democracy, so some modification of the “Local and Regional Voice” proposals may be warranted.

2. To justify costing, a clear rationale needs to be outlined as to whether the issues encountered throughout Australia are sufficiently diverse as to require 25-35 Regional Voices. Local implementation of measures would warrant consultation of course.
3. The level of input through both the National ‘Voice’ and the Regional ‘Voices’ will inevitably create expectations not commensurate with the small percentage of the population that constitutes the ATSI population. ATSI leaders will need to moderate these expectations.
4. The final proposal needs to include costings, the source(s) of funds, and commitments to proper accounting and auditing of funding spent.
5. It should be emphasised that the Voices are *advisory* bodies and do not have the legal authority to make decisions under Government laws.
6. It is agreed that membership of the National Voice should have a gender balance in view of reported issues of domestic violence and child abuse.
7. It is agreed that Torres Strait Islanders should have at least one representative on the National Voice due to their differing history and issues.
8. I have a strong preference that National Voice members be entirely from the regions rather than cities as this is where the main issues are encountered. Alternatively, if all ATSI can be members of the National Voice, at least one from each State should come from the regions. The *appointment* of 2 members e.g., Professor Davis, Noel Peterson, Jacinta Price et al would be supported in view of their experience.
9. The non-justiciability of both the *obligation* to consult or the *expectation* to consult is highly supported particularly if AD(JR) applications are also not allowed.
10. Differing views between Local ‘Voices’ within the one state, or between “Voices” in different states, will all be presented to the National Voice for its final decision, rather than going through some very time-consuming process of trying to resolve the differences at the Local or State level.