Regionalism for Indigenous Governance:

Emerging Models and Policy Challenges

Observations from the
Indigenous Community Governance Project (ICGP)

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1. Introduction

Regionalism in Indigenous Australia is already a fact of life—an Indigenous, as well as an administrative and policy fact. It can be seen in the workings of Indigenous traditional (classical) institutions and socioeconomic systems, as well as in the historical establishment of regional organisations and political representation by Indigenous Australians, especially over the last 30 years.

The issue of regionalism in Indigenous governance arrangements has more recently come to the fore as a result of several government-instigated changes including:
- the dissolution of ATSIC with its national elected arm and regional councils;
- the consequent search by the Australian and State/Territory Governments for a replacement Indigenous representative voice at the regional level;
- the current amendments to the *ALRA (NT) Act 1976* which encourage the establishment of regional land councils;
- policy changes by the Australian Government which facilitate the negotiation of Regional Partnership Agreements with Indigenous regional networks or organisations; and
- policy changes instigated by various State and Territory Governments to encourage greater regional development and regionalised forms of local government (including Indigenous local government under the NT Government’s *Building Stronger Regions – Stronger Futures Strategy* and recent Bilateral agreements with the Australian Government).

In the context of the Northern Territory (NT), the implications of recent major policy changes, especially in area of land-ownership and representation, are potentially greatest for the estimated 72 per cent of Indigenous residents who have residential and ownership ties to inalienable freehold Aboriginal lands. It is they who now occupy most of the land area outside of the urban areas, and it is they who to date have been largely kept outside of formal Territory planning processes.

When thinking about regional governance arrangements against this backdrop, there are many issues that remain open to debate:
- What types of regionalisms exist within classical Indigenous systems?
- What will constitute the ‘regions’ for representative structures?
- Who is being represented within such regions, and who is authorised to speak on whose behalf about what sorts of issues?
- What contemporary models are emerging and will they generate effective, legitimate governance?
- What will be the links between local communities and regional levels of governance?
- Are there underlying principles and systems which are guiding Indigenous decisions about regionalised governance?
- What are the challenges in establishing and implementing governance at a regional level in Australia?

This paper overviews the early Project research findings on these questions and draws on all the case studies, not just those from the Northern Territory.
2. What is a ‘region’?

‘Region’ is a classificatory concept, variously defined in dictionaries to mean: a large, usually continuous segment of a surface or space; area; a large, indefinite portion of the earth's surface; a specified district or territory; an area of interest or activity; a sphere; a part of the earth’s surface: area, belt, district, locality, neighbourhood, quarter, tract, zone, neck of the woods, territory. A particular area used for or associated with a specific individual or activity: country, district, terrain, territory.

However, there are diverging views as to what ‘regions’ represent and how they should be defined for planning, governance and policy purposes (Taylor 2004). Across the case studies in the ICG Project we are seeing a great diversity of types of regions. They are generated out of cultural, social, economic and political circumstances, and they have important historical dimensions.

Some regions are administrative creations with notional boundaries (e.g. such as created by the administrative operation of police, education, health departments);

Some are devolved jurisdictional regions (e.g. state, territory, local government regions) with clearly demarcated gazetted boundaries; see Smith 2002a)

Some are functional regions which display an interdependent coherence of parts when defined against certain criteria (e.g. networks of towns and smaller dependent communities; flows of certain goods and service delivery; mobility flows in geographic areas; see Smith1995; Taylor 2004)

Some are culturally-based regions (e.g arising from an internal consistency of ceremonial, kinship and marriage relationships that adheres to a mutuality of land (Morphy 1999)

In theory, several kinds of population levels and different systems of rights and interests can be identified for any of these given regions. And in the real world, types of regions overlap and mesh with each other.

3. Indigenous regions?

In respect to Indigenous ‘regions’, there is substantial anthropological documentation of their dimensions and reproduction within Indigenous societies across Australia. They include regional ceremonial blocs, regional networks of sites and dreaming tracks (where regions may cover states and transect the nation); regional trade routes and patterns of economic exchange; regional networks of mobility; and layered natural groupings underlying regional patterns of traditional governance (such as collectivities of groups arising from shared language, ceremonial affiliation, clan and land-owning relationships, dance-style groups, kin connubia and so on).

There arguably also existed Indigenous ‘jurisdictions’, that is, juridical and social spaces in which Indigenous laws and practices operated, albeit localised ones that were elaborated across regions, and exercised by individuals with authority (Langton 2002: 1; Reynolds 1998: 208–15).

The boundaries of these customary or ‘classical’ regions are not cadastral in the standard sense. They may be visible in geographic and ecological form, but they may also be invisible and constructed in the form of Indigenous naming, marriage, ceremonial and ritual systems (Arthur and Morphy 2005). These classical Indigenous
regions continue to be subject to ongoing negotiation, fission and fusion (Peterson 1976; Smith 1995; Smith and Finlayson 1997; Williams 1986).

Some of classical Indigenous jurisdictions have been recognised under Australian legislation and now have gazetted boundaries and land-holding Trusts or Prescribed Body Corporate overseeing them. Other culturally-generated regions have formed the bases for the establishment of various representative organisations such as Native Title Representative Bodies, Land Councils, previous ATSIC Regional Councils and, more recently, regional forms of local government in the NT (see Smith 1995, 1996).

4. Indigenous principles of regionalism

Indigenous regionalism in its classical forms had systematic principles of formation and institutions involved with them.

One such principle—that of ‘relational autonomy’—is fundamental to formations of regionalism found amongst Indigenous Australians.

Within Indigenous social and political domains there is a preference, on the one hand, for autonomy, that is marked by a tendency towards localism and high value accorded to local control at the level of small, kin-based congeries of people attached to particular geographic locales.

But this momentum towards atomism, fission and small-scaled autonomy is systemically balanced, on the other hand, by an equally compelling strain towards relatedness. This emphasises the desire for connectedness and interdependence, and the reproduction of enduring Indigenous webs of relationship, alliance and exchange, and brings small groups together into confederacies; that is, alliances for some common purpose, which are sometimes lasting, sometimes short-term and situational.

For example, confederacies are formed on the basis of wider cross-cutting systems of land ownership and management, social and kin responsibilities, ritual alliances, and larger-scale political and economic networks. It was precisely such a collectivist approach that was apparent in the Pitjantjatjara peoples’ successful efforts via the Pitjantjatjara Land Rights Act 1981 passed by the South Australian Government, to have their land returned en bloc as part of a regional settlement, rather than it being disaggregated to component Pitjantjatjara groups and being allocated separate titles. It was also apparent in the western desert people’s establishment of the Ngaanyatjarra Regional Partnership Agreement.

This principle of ‘entwined autonomy and relatedness’ gives rise to another fundamental principle informing traditional Indigenous regionalism, namely, that of subsidiarity.

Subsidiarity is a process of devolution within a system of decentred federalism which aims to provide the constituent units or parts with more effective control over their own spheres of action, and influence over the determination of the conditions of local action. It is apparent in the Australian Federal system of government and in the operation of the European Economic Union.

Indigenous Australian societies practiced a form of subsidiarity in their classical social, political and economic systems, where they recognised ‘the virtues of united strength that preserved a high level of local self-determination’ amongst member groups (Young
2000: 241). Instead of assuming that governance must be centred, bounded and unitary, the Indigenous principle of subsidiarity, when meshed with the principle of relational autonomy, poses the possibility that federal systems of Indigenous governance can be decentred and accommodate inter-dependent layers; creating a negotiated and fluid ‘pooling’ or coalition of sovereignties. An important characteristic of traditional subsidiarity is its negotiated division and allocation of roles, rights and responsibilities across different groups and classes of people.

The importance of these twin principles of subsidiarity and relational autonomy are very much in evidence in the contemporary Indigenous construction of new forms of organisational governance. Alongside the pull of autonomy, there has always been a persistent and strong assertion by Indigenous groups of their interests via larger-scale systems and structures.

In spite of this, there is still an inclination by outside commentators to see Indigenous representative legitimacy and self-determination as most appropriately based on small-scale local groups. However, the ongoing amalgamation by Indigenous groups into various forms of regional representative arrangements requires this view to be reassessed. Arguably, self-determination and self-governance can also lie in the process of groups developing an organisational platform from a regional set of interests. In doing so, important processes of reinvigorating cultural identities are being undertaken, and new Indigenous regions are being constructed, many of which mesh with other contemporary kinds of administrative, jurisdictional and functional regions.

5. Models of contemporary regional governance

The Project case studies certainly confirm an Indigenous political inclination towards larger coalitions, evident in the moves to establish centralised and regional service-delivery and representative agencies. This is apparent in the areas of health, housing, royalty distribution, resource agreements, local government, homelands representation, arts and crafts industries, and so on. It is also evident in the internal negotiations within some communities to construct ‘nation’ identities at a regional level, with organisational representation of those identities.

At the same time, while there has been a political movement towards regionalised service delivery and organisational arrangements (i.e. from small to large representative structures), the case studies indicate the sustained residential movement of Indigenous people away from the large discrete communities to smaller homelands (i.e. from the large to the small residential scale).

In other words, the Project case studies are highlighting a ‘two-way’ trajectory for Indigenous governance; namely, a desire for residential decentralisation and localism on the one hand, alongside political centralisation and service regionalism on the other. This has important implications for future initiatives to reshape Indigenous governance.

The case study research is also reporting examples of innovative Indigenous thinking about regionalism in respect to their contemporary governance arrangements. In some cases, groups are veering towards a single governance structure; in others they are testing out ways of developing representation, service functions, business relationships across communities, geographic regions and groups of organisations. These arrangements have been variously referred to as ‘congresses’ and ‘bottom-up federalism’ (Coombs 1994); ‘dispersed regionalism’ (Westbury & Sanders 2000);
‘devolved jurisdictions’ (Smith 2002); and a ‘plurality of interests’ (Bern & Dodds 2000).

If we accept that regionalism is as valued an organisational principle as local autonomy, and that through the practice of subsidiarity, the two are inextricably linked, then the more important question is, exactly what forms of decentred regionalism are Indigenous groups generating? How are processes of representation, legitimacy, participation being addressed? And how workable are they?

In the Figures below, I have summarised some of the models of regional governance that have been established and are being investigated by the ICG Project case studies, as well as others models that are under consideration. They include: models based on language, kin and family groups (Figure 1); ward models (Figure 2); hub and spokes (Figure 3); ‘families’ of organisations (Figure 4); loose confederations or unions (Figure 5); Federated Bi-cameral systems (Figure 6); and complex combinations of these.

Some organisations are emphasise functional regionalism (focusing on service delivery); others are primarily about political advocacy. Some do both. All appear to have important elements of a cultural geography of representation to them.

The key features of these are summarised in each Figure.

6. Some common principles informing regional governance

The comparative analysis of Project case studies indicates that Indigenous experiments in developing alternative forms of regionalised governance, are being informed by some common guiding principles and institutions.

A key advantage of the federalised forms of regionalism lies in their tolerance of diversity of identities and inter-dependency. Perhaps not surprisingly, the twin principles of subsidiarity and relational autonomy underlie every case study example, and are being used to operationalise these advantages. When establishing new organisational arrangements, Indigenous Australians are seeking to work out relationships—in issues of representation, membership, authority and decision-making—and the associated division or roles and responsibilities that accrue to these issues and to organisational levels.

Regional structures are relational models. They give expression to communities of identity and interest which may be dispersed and layered, but nevertheless regard themselves as a collective identity especially apparent in urban and rural areas.

The principle of decentralisation is evident in the transfer of roles and responsibilities to small-scale periphery layers of a regional structure. In some cases this coincides with a transfer of authority and capacity to those lower-order levels as well.

Devolution can give a workable form to larger-scale corporate autonomy. It involves the creation of connected autonomy where there are tiers of authority, responsibility and entitlement, together with tiers of accountability—down to local constituents, and up to higher organisational levels.

The ‘governance mapping’ carried out by the ICG Project to date, shows a large number of Indigenous community organisations working at a fairly small, localised scale and often in restricted functional areas. There is fairly strong defense of these organisational arrangements as protective of localised autonomy. However, we are also seeing
problems of scale emerging, as a multitude of small organisations struggle to develop
and maintain effective capacity, continuity of staffing and administrative systems, and
struggle to deliver outcomes for their members in the context of current major changes
in national policy and program funding.

Many community organisations and groups are experimenting with different forms of
aggregation, establishing regional networks and linkages across coalitions of
organisations. These emerging regional models are being designed to simultaneously
address and balance issues of local autonomy and regional scale. An important
mechanism for achieving such a balance is through models of representation and
accountability (both ‘internal’ and ‘external’) — the former allowing people to stand for,
or represent others not present, and the latter allowing those not present to still have
some ongoing role and input to governance processes.

7. Policy and practical challenges
The comparative research analysis from across all the case studies is highlighting a
number of practical and policy challenges in the difficult task of developing legitimate
and effective regional governance.

The limits of regionalism
Over a decade ago, Noel Pearson explained to a Parliamentary Joint Committee on
Native Title what he saw as the impact of the Indigenous ‘politics of representation’,
arguing that:

We cannot have 320,000 incorporated organisations. There has got to be a point at
which people surrender their jealous control to more rational regional service
delivery ... at the end of the day if we are going to fuel the fantasy that we need to
give absolute local control to people, and you are just giving everybody five bucks
each, that is not going to result in good administration of important legislation like
this. There has got to be a point at which people of a region have to understand
that, if their interests are going to be protected under legislation such as this, then
they need to put aside their local differences, to get behind and have membership
of a regional organisation. (Commonwealth of Australia 1994: 324-5)

In the midst of continued negotiations about the relative benefits of local and regional
autonomy, many Indigenous communities (discrete as well as communities of identity
and interest) are positioning themselves as influential regional voices. Their leaders
constitute the regional and national Aboriginal leadership, and many are linked to
networks of Indigenous stakeholders and key individuals in government agencies.

But there are limits as well as advantages attached to regionalism. While there is
growing policy recognition that ‘one size’ will not suit all governance needs, this not
mean that ‘all sizes are equally good’. Not all structures are going to be equally
effective in facilitating effective Indigenous governance.

The idea that there is an ideal size for Indigenous governance has been demonstrated to
be a chimera. Apart from anything else, on the Indigenous side there are limits to
relatedness when used to inform the operation of large organisational structures — some
conglomerations and classes of groups can fit together better than others. There are also
disadvantages for corporate and financial accountability when decision-making favours
kin-based ties.
The membership of groups who will constitute a region (‘who’ is the organisation going to represent?) will involve vigorous internal debate and negotiation. It is perhaps the fundamental question that has to be answered from an Indigenous perspective. At a regional level, the options are greater and therefore, so are the possible disputes.

On the basis of the case-study research, effective regional models of governance will best be realised by creating interlocked layers or aggregations, with corresponding clearly-defined distribution of authority, responsibility and accountability. This does not necessarily mean creating organisational structures at every layer; the focus is on the clear delegation of authority and roles, not on a plethora of structures.

The comparative analysis of the research is strongly indicating that the traditional Indigenous principles of subsidiarity and relational autonomy are informing contemporary Indigenous thinking about governance. The considerable significance of these principles for creation of Indigenous representative structures (and for their disintegration) need to be much better understood by those involved in facilitating governance-building.

**Poor Subsidiarity**
The Indigenous principle of subsidiarity has significant impact on governance structures and processes—for the better if a ‘resonance’ can be found between them and contemporary governance arrangements; and for the negative if they are ignored and then act to undermine processes and functions.

Following the conditions of Indigenous subsidiarity, the different tiers of organisational governance need to be well clarified. Their different powers, roles and responsibilities of tiered regional governance should also be well understood, perhaps formally agreed upon and subject to periodic review.

The divisions of responsibilities and power within a regional structure will be subject to ongoing negotiation from groups within the region. This process needs to be given statutory and policy space, and support. It is arguable that ongoing negotiation can be a healthy feature contributing to ongoing viability of regional governance arrangements—keeping an organisation on track and maintaining its credibility.

Clear lines and modes of accountability—internal and external—are critical challenges. These need to be well designed and understood. Internal and external modes of accountability will be of different kinds.

Competition between organisations can substantially undermine the effectiveness of regional governance. This has been raised in several of the case studies.

If new regional governance arrangements are to assume a sense of legitimate representation, common purpose, and joint planning, it is essential to put effort into the careful design of regional boundaries.

**Representation**
Representation and legitimacy are key challenges at a regional level—Who is being represented in a regional governance structure? Who is authorised to speak on whose behalf and about what issues? Not surprisingly, we are seeing most complexity in representative solutions.
Leaders and groups are not automatically selecting traditional language or clan-based forms as the basis for regional representation. In some cases, where the geographic area of a region is sufficiently small and culturally coherent, then kin and land-based alliances are being used (e.g. Thamarrurr, Bunuba). But when the scale of the region is substantial (e.g. West Arnhem Land; Noongar) people are designing representative mechanisms that combine cultural, functional and administrative components.

For representation and accountability arrangements to enable Indigenous constituents to put more faith in governance at a greater geographic scale, and hence to be less concerned about maintaining highly localised autonomy, those arrangements have to be seen to be fair, legitimate and they have to work. They also have to be able to provide ongoing communication with members about their decisions, actions and plans.

Representation is not static; it may be contingent on events, demographic success, the dominance of certain mobs, the influence of particular leaders, success in gaining access to resources, and changing influence with external stakeholders. Regional governance arrangements therefore need a degree of flexibility to accommodate changing conditions of representation and leadership.

The case studies also suggest that policy makers and Indigenous leaders involved in facilitating regional governance solutions need to be wary that the new structures do not simply replicate dysfunction and problems from the local and community level. In particular, the rise and fall of some early regional initiatives in the case studies, suggests that proponents of regionalism also need to be wary of monopolies of power by local elites being expanded at the regional level. Checks and balances are needed to ensure broad representation of, and accountability to, all constituents. This is a highly problematic issue for Indigenous leaders who have significant demands placed on them to service exclusive family interests.

Poor representation quickly undermines regional credibility, and leads to poor participation and support from members.

**Power and jurisdiction**
Regionalised governance cannot be imposed from the top down. Or rather it can be, but it will not easily be recognised as having legitimacy or credibility. It will not be recognised as having a cultural fit, its leadership will be suspect, it will have very little immediate participation and engagement from people on the ground; and it will have sustainability problems.

To be effective, regional governance needs genuine devolution of power if organisations are to act as a real voice for larger areas. The statutory bases for regionalised governance are weak around Australia. The NT seems to be leading the way, especially after ATSIC dissolution—the NT Local Govt Act provides a framework that has flexibility and room to move in terms of cultural innovation and solutions, but it is poorly harmonised with rights and inertest under the ALRA and Native Title 1993 Act.

**Governance Capacity**
A key constraint noted in the case studies for the construction of regional governance arrangements is the issue of lack of organisational capacity, including: human capital; institutional, financial, literacy, management and administrative capacity, and service delivery capacity.
Ongoing issues to do with the adequacy of regional representativeness will be moulded by each organisation’s success in delivering services and securing significant gains for their constituents. Poor service delivery undermines regional credibility and creates the potential for bigger disasters at the regional level. If an organisation fails to deliver regionally, it may well act as a catalyst for constituent groups to push for greater local autonomy— which itself is a catalyst for fission again.

The process of designing alternative larger-scale forms of governance involves substantial time, effort, a consideration of shared history, and a shared understanding of institutions and values that need to inform the new arrangements. The case study research suggests that the workability and legitimacy of governance solutions benefit from sensitive external facilitation and mediation of this process.

**Government capacity**

The early lessons in the NT from the establishment of Regional Authorities (a lesson confirmed in other States), is that it is unrealistic to think that a regional governing structure will emerge fully formed, let alone with full service-delivery and governance capacity. There needs to be intensive facilitation and mentoring in transition and early establishment phases. These are areas in which governments could provide considerable support, but there are significant gaps in government capacity to do so.

The demise of ATSIC means there is no representative national indigenous voice in the policy process. There are no clear Indigenous ‘partners’ with whom to negotiate partnerships at regional levels in most jurisdictions. In the post-ATSIC world, the Australian Government’s current position of wanting to deal with regional Indigenous representative organisations and networks, but not to fund their negotiation or establishment costs, is ironic—a case of wanting to have its cake and eat it too.

Current national and some State policy frameworks purport to encourage a more ‘whole of government’, ‘whole region’ and sometimes ‘whole of community’ approach to Indigenous governance-building. However, on the basis of the comparative case studies, it is arguable at this point in time that the reality on the ground remains one of poor coordination and collaboration between government departments and across jurisdictions. Certain government departments are renowned for their noticeable lack of collaboration, and their insistence in maintaining a unilateral ‘silo’ approach to their engagement with Indigenous community and regional organisations.

More time and consideration needs to be given on the part of governments to the necessary resources and capabilities (institutional, material, human and financial) available within their own agencies and departments to ensure effective facilitation of governance at regional and community levels. Regional partnerships are needed which have governance institution-building and capacity-development as one of their core goals and outcomes.

**Juridification**

Governance is not static. Every society has a right to develop its institutions and organisations in a manner it regards as internally legitimate, and to do so according to its informed choice. Traditional Indigenous governing systems have evolved over time, albeit within a worldview that emphasises continuity. It is also unlikely that cultural match issues will be resolved early in organisational structures and processes. Contemporary Indigenous governance arrangements need to evolve to meet changing conditions and challenges; whether those are internal or externally instigated.
The Project research has identified difficulties being experienced by some communities and their organisations when their early experiments with cultural match become too quickly concretised or juridified by formal legal and technical mechanisms; for example, in constitutions and statutes that require external permission for arrangements to be changed.

Culture match is a valued goal, but difficult to design and maintain. Once a particular structural solution or procedure is developed, we should not assume it will be the final form. The research shows that Indigenous people need time to assess how well their designs are working, and have the power to adapt or completely change arrangements when they are found to be insufficient to the task or lose credibility etc.

This has considerable implications for governments and mainstream legal and regulatory frameworks. Legislation in particular, needs to be enabling of the search for effective, legitimate forms of regional governance.

**Funding**

Moves to establish regionalised forms of governance are not recent, but with the gap left by ATSIC Regional Councils, a renewed investment is likely to be needed in time, resources, negotiation, and facilitation by governments and Indigenous people to strengthen governance at the local and regional levels. The experience across the case studies is generally that greater investment of resources will be in set-up phase, with the goal of delivering governance dividends down the line.

The lack of integrated or pooled government resourcing of governance and capacity-development, and the lack of streamlined mechanisms for delivering funding are having significant negative impacts on the viability of some organisations and efforts to develop regional representation. Current government funding allocation mechanisms are simply not set up to support regionalism.
References


