ADR Bulletin
ADR Bulletin

Volume 11 | Number 2 Article 2

6-1-2009

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Helen Bishop

Recommended Citation
Bishop, Helen (2009) "Communication, representation, voice and choice: facilitating conversations on indigenous needs and aspirations: Part 1," *ADR Bulletin*: Vol. 11: No. 2, Article 2.
Available at: http://epublications.bond.edu.au/adr/vol11/iss2/2

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ADR Bulletin of Bond University DRC

ADR for Indigenous Australia

Communication, representation, voice and choice: facilitating conversations on indigenous needs and aspirations

PART 1

Helen Bishop

This is the first part of a two-part article adapted from a research paper.

The author's research looked at the question: could ADR processes be used to assist Indigenous Australians overcome abject disadvantage and solve problems concerning themselves? She identified five themes from her research to construct a picture of how Indigenous people might be more involved in decisions concerning their own lives: (1) natural justice; (2) alternative dispute resolution; (3) culturally effective communication; (4) policy framework; and (5) moving forward.

Part 1 of this article discusses themes (1) to (4). In Part 2 she suggests how Indigenous Australians might be able to overcome their problems. It will appear in a future issue of the ADR Bulletin.

> The struggle has been on both an individual and organisational level — and the aim has been to gain recognition of the Aborigines as equal human beings.[1]

Introduction

This research project began with the understanding that Australia's Indigenous people are chronically over-represented in the criminal justice system, with acknowledgement that we suffer obscene and preventable morbidity, and etch out an existence in gross poverty amid over-crowded housing conditions and persistent unemployment, while at the same time being deprived of economic independence. In a statement, Indigenous life outcomes are appalling and the picture described is not unrealistic to Indigenous lives.

Our lives are in fact the subject of many damning inquiries and reports.[2] Our life experiences have been influenced by historical decisions that have degraded our status, removed us from home lands, separated our families and fractured societies, and thus compromised our identity. As a result our economic, spiritual, and cultural practices and observations have been ruptured and critically damaged. These significant elements once ensured our longevity. Here lies a history of disadvantage that today remains as we continue to suffer the worst human outcomes across a nation of Australians and yet we are born of this land.

A recent Inquiry resulting in the *Little Children are Sacred* report[3] further confirmed that Indigenous life experiences can influence early death and cause mortal harm, particularly upon our young. Successive Federal, Territory and State Governments invoke policy and legislation intended to improve our lives, with the most recent response to the *Little Children are Sacred* being another solution in the form of the Northern Territory National Emergency Response (the NT intervention).[4] This response was enacted to protect our children and as the Western Australian Aboriginal Child Health Survey reveals:

> In much the same way, racially based beliefs and attitudes have resulted in Australian society having a negative view of the level of Aboriginal people's intelligence, their ability to understand, and to be responsible for themselves and care for their children.[5]

So I questioned whether our people had in fact been at the heart of this 'solution' or 'initiative' as recommended by the Inquiry:

> … It is critical that both governments commit to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities.[6]

Little Children Are Sacred put forward the view that in order to overcome Indigenous disadvantage it required:

> … a determined, coordinated effort to break the cycle and provide the necessary strength, power and appropriate support and services to local communities, so they can lead themselves out of the malaise: in a word, empowerment![7]

Here is yet another report, echoing similar recommendations as those of successive inquiries to generate and impose another set of policies and 'solutions'. Such practices avoid altogether any notions of inclusion, let alone solutions intended to meet our diverse cultural needs and contexts and ensure our longevity. The NT intervention remains a salient reminder that Indigenous people still need to be at the forefront of solving problems for themselves; for the NT intervention as such has eroded our dignity and thus diminished further our humanity. For all of the inquiries and reports undertaken they have yet to improve our lives.

Historical and existing government

Published by ePublications@bond, 2009

ADR DEVELOPMENTS

Snapshot of mediation survey

ACDC is currently conducting an online survey: **A Snapshot of Mediation — skills, usage and outcomes**, and is calling for respondents. The survey should take no more than 5–10 minutes to complete and results are completely anonymous. Access the survey at <www.acdcltd.com.au>. ●

Mediating on the inside

Prisoners in the South Bay Correctional Facility in the US are being taught to mediate. Twenty of the 1863 residents are learning how to mediate disputes between other inmates. The disputes the inmates will deal with can range from one cellmate wanting to read with the light on while the other sleeps, to who gets to use the gym equipment first.

The aim is to settle the disputes before they become violent which will often lead to further time served for the offenders. The mediators accept that they cannot dictate the terms of an agreement but can provide solutions and have them agree.

The prison sees the mediation training and experience as a valuable skill that the inmate-mediators can use not just while in prison, but also when they are released. ●

It's a dangerous business

The dangers to a mediator are often underestimated! During a failed family mediation, a woman in the UK allegedly bit and hit her mediator after threatening to kill her estranged husband. The woman is facing several charges including common assault. ●

policy has not always provided the relief required to nourish Indigenous people's futures that are echoed by the inquiries and reports I mention. Evidentiary are these inquiries and their recommendations, each successively unable to motivate any significant improvements to our lives and futures or provide solutions to the circumstances in which we find ourselves.

The contention here is that the inquiries and reports have failed to meet the intention of their aim: to improve Indigenous people's lives through the solutions governments create and impose. Rather such solutions need to match the needs of individuals and communities. Such solutions require Indigenous representation in key decisions that will ultimately affect their (our) lives. This article explores alternative methods of involvement with Indigenous people that may enlarge our capacity to develop solutions for ourselves and may include: effective representation or voice, access to confidential and facilitative services, and opportunities to discuss our obstacles in order to overcome them together and make decisions about our futures and those of our families and communities.

So this article asks:

Could alternative dispute resolution processes be used to assist Indigenous Australians overcome abject disadvantage and solve problems concerning themselves?

Thematic overview

Researching this question required of me many long hours reading in subjects regarding ADR processes — which are concerned with exploring interests and with techniques and skills necessary to facilitate discussions about interests; and the nature of human need and the purpose of human rights.

I also needed to develop an understanding and appreciation of Australia's legal system, the role of governments in representing interests, and the formulation and design of policy and legislation. These elements, I believed, would assist me approach the question as a 'how decisions can be made' process, due mainly to the influence decisions have had on our mob.

Particularly relevant to exploring the role of governments was the ability to effectively represent Indigenous people's interests and this is the crux of this research: for public representation can be tainted by self-interest,[8] as governments are comprised of individuals who enter politics and are motivated by their own agendas. So I have examined materials to gain a firm understanding on how decisions, particularly by governments, are made.

There are five themes coming from this research that stood out to me, and could more fully answer the question *could ADR processes be used to assist Indigenous Australians overcome abject disadvantage and solve problems concerning themselves?*:

1. Natural justice
2. Alternative dispute resolution
3. Culturally effective communication.
4. Policy framework
5. Moving forward

The themes provide building blocks to construct a picture of how Indigenous people might be more involved in decisions concerning their own lives. Greater participation in policy and decision-making of course requires effective representation, the question is whether and how ADR processes might enable us (countrym'n)[9] to achieve this.

Natural justice

Little Children Are Sacred presents a fresh opportunity to examine how inquiries can go on to undermine the purpose or aim of their investigations. In this case the purpose of the Inquiry was to find better ways to protect Aboriginal children from sexual abuse.[10]

This inquiry came as a result of Alice Springs prosecutor, Nanette Rogers, lodging allegations of serious child abuse and violence across the Northern Territory in a story aired on ABC television *Lateline* program on 15 May 2006. Following this, on 22 June 2006 the Chief Minister announced her government would establish an Inquiry into child sexual abuse in the Northern Territory Aboriginal communities.[11] This report[12] became the catalyst for the Australian Government's radical action stemming

from its considerable powers under the Constitution to act 'immediately and decisively'.[13]

What is glaringly obvious by its absence was the fundamental involvement of Indigenous people themselves at the very point of the NT Government's consideration to appoint an inquiry. In a nutshell, Indigenous people could have been fully informed about the Northern Territory Government's intention to hold an Inquiry and included in discussions about how it might proceed. Instead the Inquiry commenced and seemed to lump all NT Indigenous people in as harmed and injured or inhuman brutes and therefore targets for this inquiry. When the Commonwealth Government responded to the Inquiry's recommendations not all 73 townships/communities were consulted, inferring that indeed it was an 'Aboriginal problem', and it acted out of a lack of confidence in Aboriginal people themselves by not including us, failing to consider our aspirations or capabilities, as well as denying our humanity.

This Inquiry made it possible for the Federal Government to invoke the *Northern Territory National Emergency Response Act 2007, the Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007,* and the *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007*.[14] In order for these Acts to be passed in the Senate, for the Australian Army to be deployed throughout Northern Territory communities, and for Centrelink payments to be withheld or quarantined, the *Racial Discrimination Act 1975* (Cth) was suspended.[15]

The *Northern Territory National Emergency Response Act 2007* demonstrates clearly how easily our rights can be negated or eroded to serve the interests of government rather than those it says it seeks to 'protect'.[16] What this process has confirmed is a denial of our right to be adequately represented and consulted and thereby included in the discussions, processes and decisions that will ultimately affect our lives, those of our children, our communities, and our futures.

This response replicates how business continues to be done concerning Indigenous people. Some clear examples of this come from Western Australia's legislative history such as the *Royal Commission on the Administration of Aborigines and the Condition of the Natives* (1904), also known as the Roth Royal Commission, the *Royal Commission Appointed to Investigate, Report and Advise Upon Matters in Relation to the Condition and Treatment of Aborigines* (1934), also known as the Moseley Royal Commission, and the *Bateman Royal Commission to investigate into Aboriginal affairs in Western Australia* (1948).[17]

Governments burden our communities with serial inquiries and failures and this recent federal rescue mission is no different to other legislative investigations, reforms and policies of the past, and I particularly refer to more recent Inquiries and lack of coordination of the *Royal Commission of Inquiry into Aboriginal Deaths In Custody* (RICADIC) (1991) and the *Bringing them Home National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997).[18] Governments continue to deliver failure after failure, the costs are enormous, hopes are crushed, people are harmed and seriously hurt and much time has been wasted. In this instance we were not consulted about the report, and how best to approach its findings and recommendations, thus negating our right to be fully informed of matters that would be of deep concern to us.

Such matters concerning Indigenous people (one might take for granted) would necessitate being effectively involved so as to make fully informed decisions like all other Australians. Again a system is foisted upon Indigenous people, a system that neglects to construct a procedurally fair environment for Indigenous peoples' adequate participation, representation, voice and choice. As an Indigenous woman, I consistently find natural justice is absent from decisions made by governments about Indigenous Australians. By definition, natural justice involves informing a party that a decision which may affect them may need to be made.

In order to acknowledge this natural law philosophy and the rights inferred to any citizen of Australia, the decision maker must inform the party and involve them in the decision making process. This means the party being effectively informed and included in discussions prior to any decision being made about them.

In order to acknowledge this natural law philosophy and the rights inferred to any citizen of Australia, the decision maker must inform the party and involve them in the decision making process. This means the party being effectively informed and included in discussions prior to any decision being made about them.[19] Natural justice aside, it is the long held practice of governments to make decisions without Aboriginal involvement; not to do so means ceding omnipotent power and treating us as human beings.

The approach being described avoids and denies our human interest in our

own futures, silences us and removes our direct representation. Not to involve us continues to deny and degrade our status, as members of the human family, rejecting our ability to represent ourselves and articulate our interests, our aspirations for our continued ontology in making decisions which will ultimately affect our lives and thus our longevity.

The way governments do business with Indigenous people negates a just approach, as Bauman suggests in her paper on the national emergency;

> … the Commonwealth Government appears to see 'consultation' as wasting time in this national emergency.[20]

Consultation is far from time-wasting, for communicating meaningfully and listening intently enables us to develop an appreciation or understanding of each other's aspirations, experiences, cultures and situations. This form of consultation could be more akin to the community development model explored by Ife.[21] While this model is highly useful to community development practitioners it is not so focused on exploring interests. Bretherton describes an alternative process which could prove to be more productive and involves Aboriginal and Torres Strait Islander people in overcoming imposed solutions or decisions;

> In conflict resolution we distinguish between positions and interests. Effective negotiation does not take up a fixed position (in the way the government has) but requires us to both understand our own interests and to listen to those of the other. On the basis of this listening and mutual understanding of each other's stories we can then move on to working together to construct solutions.[22]

Alternative dispute resolution

ADR is an alternative way to go about problem solving and resolving disputes through direct communication between parties.

The purpose of interest-based negotiation is to advance integrative solutions and these solutions are ones that meet the needs of all the parties. Largely, the process of negotiating enhances the possibilities of win/win solutions. Interests are the issues behind the positions we take, such as the Federal Government's response to the recommendations of *Little Children are Sacred*. Alternatively they are our wants and needs, fears and concerns for our physical, environmental, cultural and identity requirements. These elements are fundamental to our human security, well-being and longevity.

Disputes involving adjudication, as in the NT intervention, involves an authority imposing decisions. It means someone else takes control of our decision-making and imposes a decision on us which goes on to affect our lives. This means of course living with someone else's solution which frequently fails to consider or explore an individual's fundamental needs and interests or endorse participatory problem solving to design and own the solutions. Disputes resolved this way can leave a residue of loss and powerlessness.

Unsatisfactory resolutions can fester and cause further injury or resentment, promoting contest to get what is wanted or needed through litigation, revenge or avoidance. Such responses can become extremely uncomfortable, costly and very painful and time consuming. None of these dispute resolution alternatives engage in such a way as to deal with the ultimate interests of parties, which consist of our fundamental needs, wants, concerns and fears. These interests are intrinsically linked to the presentation of conflicts or disputes and are frequently present but hidden behind the positions we take.

The idea of focussing on interests assists us to understand and then explore what lies behind the demand or position taken. For example a position might be, 'I must have this today'. In order to discover what interests require resolution or satisfaction it requires further exploration and discussion to get behind or inside the position. Exploring interests requires effective questioning techniques to assist uncover important needs, fears and concerns behind positions and can help us understand why, 'I must have this today'.

ADR is a means and process through which parties can explore more effectively their own interests and build an appreciation or understanding of the other party's interests. Interests need to be explored in a cooperative setting and confirmed as the process goes on. Going about problem solving in this way makes it possible to work on the basis of building solutions to match and meet all parties' expectations — as well as testing the reality of the end result.

ADR is also concerned with building cooperative relationships and genuine respect between parties. It is a process reliant upon several key and vital commitments of those entering the process: a willingness to work to solve the problem; respect for the courage needed to problem solve reasonably; voluntary entry into the process; adherence to confidentiality; a highly skilled facilitator with advanced communication skills; and a safe and warm environment in which conversations may begin.

These elements can be a catalyst to stimulating better communication, improve our listening skills and go on to nurture trust that may also enrich relationships. Such approaches are designed to assist parties to listen to each other, and to share their stories and hold the capacity to enrich our understanding of another's point of view or situation. This way of engaging with each other makes it possible to work meaningfully together to work out our future relationships and craft the most suitable solutions to meet our needs.

As Indigenous people's traditional cultural frameworks work for the collective interests of the group, it is plausible to suggest then that this form of problem solving is constructive on a number of levels. First the process seeks to build and foster trust, honesty and cooperation. The notion of constructive problem solving through ADR provides parties with access to such service so that parties may enter into discussions in the first instance, secondly that there is a commitment to maintain cultural practices of witnessing or confidentiality and thirdly that parties entering into this process do so voluntarily and with the best of intentions. The purpose of utilising ADR services means that parties recognise that they need assistance and

would like to use a peaceful and non-aggressive form of dispute settlement and want to be involved in the decisions and arrangements that will ultimately affect their lives.

When effective access to ADR services or cooperative problem solving is openly available to Aboriginal and Torres Strait Islander people it may better serve parties wishing to tackle disputes or difficulties through this process. This of course means that communication with each other will be reasonable in order to uncover interests and work together to problem-solve conflicts that harm our interests and work diligently to overcome them.

Practitioners or facilitators assisting parties through such processes need to be advanced and effective communicators to enable better decision-making and new relationships into the future. As Archbishop Desmond Tutu[23] so eloquently says:

> … negotiations, peace talks, forgiveness and reconciliation happen most frequently … [as][24] enemies are potential allies, friends, colleagues and collaborators. This is not utopian idealism. The first democratically elected government of South Africa was a Government of National Unity made up of members of political parties that were engaged in a life-and-death struggle. The man who headed it had been incarcerated for twenty-seven years as a dangerous terrorist. It could happen here, it can happen in other places.

Culturally effective communication

In order for Indigenous people to overcome the obstacles of imposed decisions it is vital that an appreciation of cultural context be understood so that practitioners working with Indigenous people understand those important elements impacting upon Indigenous lives and futures.

> When people who are talking don't share the same culture, knowledge, values, and assumptions, mutual understanding can be especially difficult. Such understanding is possible through negotiation of meaning. To negotiate meaning with someone, you have to become aware of and respect both the differences in your backgrounds and when these differences are important.[25]

Metaphor is an approach that can make it possible to advance communication toward enough diversity of cultural and personal experience as to be conscious that divergent world views exist and to be curious enough to explore what these might be like.[26] The use of metaphor can be a particularly powerful way to assist facilitators in building rapport and developing an appreciation of the issues Indigenous people face.

Where a non-Indigenous facilitator is engaged their patience and openness would be crucial to enable other world views to be explored, as well as using the best metaphor to represent the relevant parts of unshared experiences. Using metaphors therefore is a necessary skill in communicating and exploring unshared experience.[27] This means that when parties with the express intention of supporting Indigenous need fulfilment enter into dialogue facilitators must demonstrate advanced communication skills critical to developing meaningful relationships where conversations can move to explore, understand and assimilate meaning.

The use of metaphor could enable understanding of Indigenous relationships, which is a vital component to Indigenous life. I use my own cultural knowledge of kinship structures to demonstrate this point. Kinship relationships could be described as tapestries delicately woven throughout a community. The colour of each thread is an integral part of the strength, pattern and design, its function being to hold each thread together as is the skill of tapestry.

The colours used and each thread's artistic role completes the full vision or purpose. The art of tapestry serves no purpose where the threads are weak, colours random or faded or a pattern absent. Thus Indigenous peoples' cultural context extends to the arrangements which go into their collective identity. Identity dictates the social engagements and observances crucial to the full function of each person's role, responsibility and the community's larger orientation. How each relates to another in the precise nature of Indigenous relationships will dictate the path or pattern of communication and when kinship ties are damaged the community ultimately suffers.

So, the way one communicates is intrinsic to the success of cooperative problem solving, and a facilitator must be capable of fostering relationships, creating a collaborative framework and modelling an attitude to match engagement and cooperation. That is effective facilitators will have the composite skills, knowledge and attitude to be able to set a stage that is friendly and welcoming and will foster working impartially and harmoniously with all parties.[28]

A skilled facilitator will avoid escalating conflict by enhancing all parties' understanding of ADR at the commencement of any discussions.[29] This could be achieved by calibrating party's senses and in some cases a smoking ceremony could be used to trigger or stimulate a fresh and cleansed attitude. The smoking ceremony acts to purify, renew or cleanse the environment, mind, body and spirit, embracing a sense of peace and wellbeing. In any event preparing parties is vital to motivate, focus and understand the purpose in yarning[30] about difficulties so as to work cooperatively to overcome them.

Policy framework

An important starting point lies with improving national governance structures to create opportunities for our effective representation through flexible ADR processes. Legislation can be developed by involving Indigenous and non-Indigenous specialists in the field of ADR to assist creating policy frameworks concerned with Indigenous engagement. I propose that policy development consider working on a natural justice framework. Natural justice[31] acknowledges our right to be adequately represented and consulted, a fundamental human right of free, prior and informed consent and thereby included in the discussions, processes and decisions that will ultimately affect our lives, those of our children, our communities and our futures.

The natural justice framework assures us that we can be effectively represented and that we can use the words of our own voice to express our needs and interests — direct involvement, access

and self-representation. However, natural justice as a rights-based approach on its own can become sticky, because there are different and occasionally contradictory standards that may affect or compromise self determination.[32]

Working from a rights-based perspective involves the use of the 'neutral' third party to determine who is right and who is wrong and decide the outcome. It is worth making the point that these so called 'neutral' parties are likely to be drawn from an elite strata in society that has been shaped historically and is likely to be white and male, affluent, educated at a private school and not necessarily knowledgeable about Aboriginal issues.[33] ADR on the other hand does not give the mediator the authority to make decisions or control the outcome. Decisions are made by the parties and thus they determine for themselves solutions that accommodate and satisfy their needs, wants and interests.

Arbitration puts *the right and the wrong* in the hands of someone else to make a decision and applies a standard that cannot match our unique sets of interests and needs and ultimately conflicts with culture, self-determination and self-empowerment.[34] Thus we need highly skilled facilitators, both Indigenous and non-Indigenous, to support us to work through problems requiring our interests to be both worked on, and solved, by us.

I suggest that this could be achieved by making provision through policy so that access and capacity-building in the field of ADR and co-operative problem solving could occur across government departments and throughout Indigenous communities. Such an approach could transform structures and greatly minimise the harm of arbitrating or imposing solutions as has been done in the past. Imposing solutions contributes to unequal systems, Galtung[35] suggests, and erodes natural justice and influences social outcomes:

> Violence is built into unequal, unjust and unrepresentative social structures. These inequitable social structures create low incomes, poor education and health and low life expectancy.

And as Schellenberg[36] points out we need to develop institutions to manage our conflicts and decision making:

> … the most important structural feature today for producing conflict and affecting future generations lies in the way our national states are arranged. We are increasingly a world society in fact, but we have not yet forged the institutions that will effectively manage our world conflicts.

Of course it means we need to begin aligning policy to support practical problem solving for policy is able to influence institutional reform. Policy is the integral and structural part of transforming the way our governments work with Indigenous people and impose decisions on us. Once governments, organisations and communities have developed their capacity to manage conflict and prevent disputes, it can lead to effective representation and problem solving and minimise poor decision making and imposed solutions, as discussed by Bauman.

Indigenous people require access to culturally attuned and impartial dispute resolution services, culturally aligning facilitative ADR services to engage Indigenous facilitators to assist manage and smooth the progress of discussions on issues we need to solve for ourselves.

> Poor decision-making and problem solving processes in which Indigenous people have been required to make decisions in a vacuum have repeatedly led to unsustainable outcomes for which no one takes responsibility, despite the Commonwealth Government's mutual responsibility, agreement-making and partnership policies.[37]

The recognition of the usefulness of ADR is reported by NADRAC[38] and the Indigenous Facilitation and Mediation Project (IFaMP).[39]

The research of NADRAC and IFaMP involved Indigenous and non-Indigenous facilitators, Native Title Representative Bodies, Indigenous Organisations, Government and non-government agencies over a period of three years. The respective findings and recommendations suggested that Indigenous people must have access to fair and effective dispute resolution as a means to enrich solving problems concerning themselves, to enhance co-operative decision making and move into culturally sound governance practices.

We Indigenous people require access to culturally attuned and impartial dispute resolution services, culturally aligning facilitative ADR services to engage Indigenous facilitators to assist, manage and smooth the progress of discussions on issues we need to solve for ourselves. Engagement of effectively skilled Indigenous practitioners is supported by recommendation 4 of the NADRAC report[40] and becomes a focal point to accessibility. The IFaMP's research finding of the: 'urgent need for a national network of highly trained, skilled, monitored and mentored — particularly Indigenous — process practitioners'[41] also supports this same view.

Facilitated dialogue has the potential to confront hopelessness, distrust and civic impediments and can be a medium through which transformation of the community and decision making may occur. ●

Helen Bishop is a Cross Cultural Mediator with the North Australian Aboriginal Justice Agency and a former member of NADRAC. She can be contacted at <*helen.bishop@naaja.org.au*>.

Part 2 of 'Communication, representation, voice and choice: facilitating conversations on indigenous needs and aspirations' will appear in the next issue of the ADR Bulletin.

Endnotes

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2. *Little Children are Sacred* (2007), *The Hope Inquiry* (2007), *The Gordon Inquiry* (2003), *Bringing them Home National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997), *Royal Commission into Aboriginal Deaths in Custody* (1991) to name a few.
3. R Wilde, and P Anderson, *Ampe Akelyernemane Meke Mekarle 'Little Children are Sacred' Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse* (2007).
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6. R Wilde and P Anderson, above note 3, recommendation 1, 22.
7. Above note 3, 13.
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9. *Countrym'n* (without an A) is a colloquial term adopted by indigenous people themselves and could be used by any person for its endearing and greeting qualities throughout the Northern Territory. I personally prefer this term for it triggers identity and establishes connection.
10. Wilde and P Anderson, above note 3.
11. Above note 3.
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13. <www.aph.gov.au/Senate/general/constitution/par5chal.htm> Accessed 20 November 2008 Commonwealth of Australia Constitution Act Part V — Powers of the Parliament, s 51.
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19. MA Robinson, 'Practical justice and procedural fairness' (2003) Paper for PAVE Peace Group Sydney.
20. T Bauman, *You mob all agree? The Chronic Emergency of Culturally Competent Engaged Indigenous Problem Solving* (2007).
21. J Ife, *Community Development — Community based alternatives in a world of globalization* (2002), see Chapter 6.
22. D Bretherton, 'Comments clarifying interest based problem solving and conflict resolution practices' (2008).
23. D Tutu, *No Future without Forgiveness* (1999) 227–228.
24. Author's emphasis.
25. G Lakoff and M Johnson, *Metaphors We Live By* (1980) 231.
26. Above note 25.
27. Above note 25.
28. E Wertheim, A Love, C Peck, L Littlefield) *Skills for Resolving Conflict* (1998).
29. Above note 28.
30. The term *yarning* has been incorporated into Indigenous cultural communication protocols and universally promotes responsible, non threatening conversation. Cultural protocols differ but generally the term

yarn is friendly or non-harmful discussion.

31. Robinson, above note 19.

32. WL Ury, JM Brett and SB Goldberg, *Getting Dispute Resolved — Designing Systems to Cut the Costs of Conflict* (1988).

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34. Above note 33.

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38. NADRAC, *Indigenous Dispute Resolution and Conflict Management*, Department of the Federal Attorney General (2006).

39. IFaMP (2006) *Final Report of the Indigenous Facilitation and Mediation Project: research findings, recommendation and implementation*, Report No 6 Native Title Research Unit, AIATSIS Canberra.

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41. T Bauman, *The Chronic Emergency of Culturally Competent Engaged Indigenous Problem Solving* (2008) 3.

ADR DEVELOPMENTS

Neighbourhood disputes in Singapore

New laws in Singapore will have neighbourhood disputes settled through mediation. Police will have the power to refer disputes to mediation. They aim to get the wider community involved to create community-based solutions. It will also have the important role of reducing the strain on police resources by settling the disputes early rather than allowing them to escalate. ●

Support for relationship intervention services

In April the Australian Minister for Families, Housing, Community Services and Indigenous Affairs, Jenny Macklin, and Attorney-General, Robert McClelland announced that the Government would invest more than $100million over the next two years to deal with relationship difficulties.

The support will include a range of early intervention services including counselling, skills training, and mediation, as well as post-separation services such as family and couples' counselling, specialised family violence services, dispute mediation and parenting support.

For more information go to <www.attorneygeneral.gov.au>. ●

Savings made by mediating construction disputes

The Centre of Construction Law and Dispute Resolution, King's College London and The Technology and Construction Court have released a report outlining their findings on the savings that can be obtained by mediating construction disputes.

The survey showed that in 9% of mediated cases over £300,000 was saved; 12% of cases saved between £200,000 and £300,000 and 15% saved between £150,000 and £200,000.

A copy of the report can be accessed via <www.adjudication.org/>. ●