

HOW HAS THE OFFICE OF THE REGISTRAR OF ABORIGINAL
CORPORATIONS REPRESENTED AND POSITIONED
ABORIGINAL
AND
TORRES STRAIT ISLANDER PEOPLE?

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CERTIFICATION

'I certify that this thesis does not incorporate without acknowledgement any material previously submitted for a degree or diploma in any university, and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text'.

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ABSTRACT

During the last 50 years, successive governments have introduced and implemented different legislative frameworks, policies and administrative structures aimed at addressing the social, economic and welfare issues prevalent amongst Aboriginal and Torres Strait Islander People and communities. The interventions implemented by the State and the Commonwealth have been primarily predicated on Western settler values, institutions and beliefs which have subsequently influenced the way in which Aboriginal and Torres Strait Islander issues are framed and talked about. The language and discourses used by government are neither neutral nor positive, but are reflective and formative of values and ideologies which are not always in the best interests of Aboriginal and Torres Strait Island People.

This study explores how colonial discourses act to maintain white colonial settler relations of paternalism and marginalisation and how such discourses continue to influence the way in which government bureaucracies, such as the Office of the Registrar of Corporations (ORAC) represent and position Aboriginal and Torres Strait Islander People, their situation and their problems. This is done through an examination of the ways in which discourses and hegemony are reinforced historically, culturally and institutionally. Decolonising theory which privileges Indigenous knowledge, ways of doing and being, provides the framework in which to question and challenge the ideological beliefs and values that constitute the foundations of ORAC and to make problematic the discourses and frames that underpin the way in which the dominant elite such as ORAC represent and position Aboriginal and Torres Strait Islander People. Discourses are systems of statements within which the world can be known (Foucault, 1980). It frames the way a topic is represented, produces knowledge and shapes the perception that constitutes the way in which power operates, especially over those who are subject to the discourse (Hall, 1997).

It is within this context that I interweave my own experiences and the stories of how Aboriginal people challenge the discourses and ideologies espoused by ORAC in their yearly publications. My original contribution to knowledge is to assist Indigenous perspectives and interests by providing a lens in which to make sense of how government view and talk about Aboriginal and Torres Strait Island People within unequal power relations and how power is used to maintain and sustain the social privilege of the settler state.

LIST OF ABBREVIATIONS & ACRONYMS

ACA Act 1976	Aboriginal Councils and Associations Act 1976
ACCC	Australian Competition and Consumer Commissioner
AIATSIS	Australian Institute of Aboriginal and Torres Strait Island Studies
ASIC	Australian Securities Investment Commission
ATSIC	Aboriginal and Torres Strait Island Commission
CAEPR	Centre for Aboriginal Education Policy Research
CATSI	Corporations Aboriginal and Torres Strait Islander Act
COAG	Council of Australian Governments
HREOC	Human Rights and Equal Opportunity Commission
ICC	Indigenous Co-ordination Centres
NTLGA	Northern Territory Local Government Association
ORAC	Office of the Registrar of Aboriginal Corporations
ORIC	Office of Registrar of Indigenous Corporations
OECD	Organisation for Economic Co-operation and Development

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INTRODUCTION

This study investigates how the Office of the Registrar of Aboriginal Corporations (ORAC) represents and positions Aboriginal and Torres Strait Islander people (ATSI), their situation and their problems. The ORAC was set up under the Aboriginal and Councils Association Act (ACA Act) 1976 for the betterment of ATSI sovereignty and nation building. The Registrar administers the ACA Act through ORAC. ORAC is the third arm of the Australian government's oversight of the regulation of corporations. In addition to regulating ATSI corporations, ORAC provides a number of services aimed at enabling and supporting ATSI groups both prior to, and during, incorporation. Using a decolonising framework, I look critically and reflexively at the use of visual images and 'taken for granted' presuppositions contained within the ORAC 2005/2006 annual report. The questions that arise within this framework concern how some discourses maintain their authority, how some voices get heard whilst others are silenced, and how are ATSI people positioned? I highlight those discourses and frames that reinforce dominant Western ideologies by analysing the text (what is said and how), talk (who is saying it) and the context (in what time and place). I then discern how government bureaucracies, such as the Office of the Registrar of Corporations (ORAC) reinscribe racial hegemony under the pretext of holding ATSI peoples to account and at the same time provide services aimed at 'helping and educating' ATSI. Whilst the study focuses on ORAC, ORAC is, in fact, emblematic of the bigger picture and reveals a number of deep-seated assumptions about ATSI people; this, in turn, raises broader questions about the asymmetry of power relations in Australian society.

I have framed the central problem of this thesis in a way which attempts to take into account the tensions and contradictions that privilege certain knowledge and create inequitable relations between Indigenous and non-Indigenous people and how these shape Indigenous relations with the State and each other. In order to challenge the way in which government view and talk about Indigenous governance, I draw upon my own lived experiences and the experiences and voices of other highly influential ATSI people and groups are privileged. My lived experiences both personal and professional and the voices of other ATSI peoples inform the research question, the theoretical work and the methodological approach; and, consequently, the structure of this thesis. This has enabled me to see the challenges confronting both ATSI people and government in different ways and to find meanings which may not have been clear before and to transform my understanding to new ways of acting and thinking. By doing so, this thesis makes a contribution to the existing literature on Australian race relations by providing a case study of colonisation and its

continuity.

THE RESEARCH QUESTION

While there are a plethora of significant questions to be asked about the effectiveness of ORAC to deliver culturally appropriate strategies to support ATSI corporations, this research has chosen to challenge the ideological assumptions, values and beliefs that have influenced the way in which ORAC represents and positions ATSI people. I do so by investigating the following research question:

How has the Office of the Registrar of Aboriginal Corporations (ORAC) represented and positioned Aboriginal and Torres Strait Islander people?

It is not my intention to critically review the ACA Act 1976, as a number of reviews have already been undertaken. At the time of writing, the ACA Act was abolished and the Corporations for Aboriginal and Torres Strait Islanders Act (CATSI Act) enacted.

SIGNIFICANCE OF THE STUDY

The legal recognition of bodies corporate is based on the Western concept of incorporation and governance. The appropriateness of imposing such concepts has resulted in a number of studies and research projects around Indigenous governance internationally and within Australia. Bauman, Smith, Quiggan, Keller & Drieburg (2015) argue that much of the research into Indigenous governance has been carried out in isolation and has been conducted as one-off case studies of particular communities, groups or organisations at a single location and point in time. These studies, which have focused on organisational governance, Indigenous principles of governance, mapping community governance, governance histories, governance of government, industry sector governance, such as; health, native title, resource management, business enterprises, housing, leadership, decision making, and organisational effectiveness have adopted a single disciplinary perspective and methodological framework. By pulling together a wide range of Indigenous narratives, including my own personal and professional experiences and privileging ATSI ways of knowing, being, and doing (Indigenous knowledge), this study seeks to investigate the way in which ORAC represents and positions Aboriginal and Torres Strait Islander people. This is done through an examination of the ways in which discourses and hegemony are reinforced historically, culturally and institutionally within the ORAC annual report. This is a fundamental epistemological break from other empirical research in this area. This distinguishes

this study from many other studies and extends the literature on how public sector agencies use discourse and images within the annual reports to legitimise their role.

Further to this, the role of the ORAC has rarely featured in the highly controversial and emotional debates around Indigenous governance, and the calls for greater accountability and transparency in Indigenous corporations. As a consequence, the role of ORAC has been subject to very little scrutiny or question and ORAC has remained (and continues to remain) invisible in these debates; thus allowing the blame for the level of dysfunction to rest with ATSI people. On the contrary, ORAC has been viewed as being supportive and enabling. In the 2005 Senate Inquiry into the Corporations for Aboriginal and Torres Strait Island Bill, the Australian Securities Investment Commission (ASIC) made the point that the: special needs of Aboriginal corporations are more appropriately dealt with by a specialist regulator that is established to address and provide funding, training and educational assistance to Aboriginal and Torres Strait Island corporations and their incorporators and management. This premise involves complex and difficult questions of a social and cultural nature which fall outside ASIC usual areas of expertise and responsibility (ASIC, 2005). Tom Calma, in his former role as the Aboriginal and Torres Strait Islander Social Justice Commissioner, released a media statement entitled: “Accolade for Aboriginal Corporations Chief”, and in his statement he congratulates Laura Beacroft on the sterling job she has done as Registrar of ATSI Corporations:

Ms Beacroft’s commitment, capacity development and inclusive approach to both the regulation of the 2,500 Aboriginal corporations registered with the Office of the Registrar of Aboriginal Corporations, as well as the support she’s given them in meeting their regulatory obligations has been outstanding (HEROC, 2007).

Public accolades from key and prominent positions such as the Aboriginal and Torres Strait Islander Social Justice Commissioner and submissions by key organisations such as the Australian Securities Investment Commission (ASIC) have influenced both the credibility and the legitimacy of ORAC as a regulator.

The research is still as relevant today as it was when I first commenced this doctorate. ATSI people continue to grapple with the policy and legislative frameworks that have been set up by the government. It is overtly ideological in its advocacy for ATSI people, emotive and political in nature because it challenges those in power whose voices tend to be heard. It is hoped that the research will contribute to the debates around effective governance in Aboriginal communities

which continue to be a talking point for government and ATSI people themselves. Any outcomes can only offer an alternative approach to the debates around the governance issues that continue to confront Aboriginal communities.

MOTIVATION FOR THE STUDY

In order to understand the focus of the research question and how I arrived at the theoretical framework, it is important to share with you my personal and professional experiences which have influenced the way in which I view Indigenous governance and the role of government and its agencies such as the Office of the Registrar of Aboriginal Corporations (ORAC). My interests in Indigenous governance have been influenced by a number of critical events in which I was involved either as a party and working within the framework of Aboriginal community-controlled organisations or as a regional manager charged with responsibility for managing Commonwealth funding provided to ATSI organisations. These experiences, both good and bad, have influenced and provided the motivation for this study, and have subsequently influenced both the theory and the methodology adopted in this thesis.

This study, which commenced in 2005, was initially driven by the need to challenge the lack of willingness by the Territory and Commonwealth governments to intervene and to take action to investigate claims that the corporate governance practices within an Aboriginal organisation had not been adhered to. At the time, I believed the lack of willingness to intervene was not only an injustice to those directly affected, it also adversely affected the future prospects of those whom the organisation was set up to assist. I watched helplessly as Aboriginal staff members, members of the communities in which this organisation was established for and by, sought to maintain and take some form of control over their organisation; only to be brought into line because of their lack of knowledge of western legislative frameworks, such as the ACA Act, their legal obligations to funding bodies and their lack of understanding of how decisions around corporate governance are made and acted upon. Not only were the more formal structures of governance being used against a group of people with little or no knowledge of the corporate law aspects of governing, the cultural status of the Aboriginal board members was used by non-Indigenous employees as a means to influence the elder statesmen by bringing these young Aboriginal men and women into line.

The board became totally reliant on the non-Indigenous staff for information. This experience not only impacted on me personally it impacted on the families and communities that relied on the

services provided by this organisation, as these same families and communities either left the area and did not use the service. Although an administrator was appointed sometime after the incident, the damage had already been done and was too far gone to fix the problem. The organisation never regained its status and credibility amongst the very people who fought hard to establish the organisation and whose dreams and aspirations for a better future for future generations may never be realised as a number of key people involved in the organisation have either deceased or moved on. The lack of knowledge and understanding of Western-dominant frames and legislative frameworks, such as the ACA Act, did not provide the Aboriginal board with the necessary knowledge and information to enable them to consider the information before them and or to make an informed decision around the governance of their organisation and their rights and responsibilities as board members to the communities they represented. Prior to this I was at a stage in my life where I believed that I had achieved a high level of academic success and professional work experience to fully equip me with the necessary skills and the knowledge to be able to give back to my people and to make a difference in the lives of our future generation. I had enjoyed the benefits of a good education and wanted to give back by taking up employment in an area in which I believed I had something to offer, in addition to this, this was something I had been working towards. I packed up my little family and we moved from the bright lights and headed bush. I remember the feeling of pride and the excitement of being offered such an opportunity. When I arrived, I visited each of the communities and as many families and elders as we could, to let them know why we had suddenly appeared in their communities and why we were there. I introduced myself and my husband by name and then by our skin group and we let everyone know where we had just come from. Not only is this an important protocol for meeting with Aboriginal communities, it is important to do so; so that members of the community know how and where to position you in terms of their relationship to you through Aboriginal skin systems. In the more remote communities where many of the traditional practices are continued, this is an important protocol for working with and establishing relationships with Aboriginal people, through this process, we are positioned and people build or form their relationships with us based on this. In the short time that we were involved with the families and communities, my little family and I established a relationship built on traditional skin relationships, trust and respect with the families and the communities we contacted. Sadly, we discontinued our service within the corporation; and although we did not stay as long as planned, the relationships we built with these communities and families have continued to this day.

In spite of this negative experience, I have had and continue to have an association with Aboriginal organisations. My mother like many other Aboriginal women worked tirelessly in the late 1970s to establish organisations in which they believed was Aboriginal controlled and whereby they could have decision making power and some control over. The organisations my mother was associated with grew out of the need to establish a formal structure in which the Aboriginal community could apply for government funding in order to provide housing and other services to the families within the community. This came about after a long and turbulent history of being under the Aboriginal Protections Act and having no control over their own lives and no control over decisions impacting on them and their families. The Aboriginal Protection and Restriction of the Sale of Opium Act impacted greatly on my father, mother and their siblings and extended family.

The Aboriginals Protection and Restriction of the Sale of Opium Act (Queensland) gave power to the Queensland government to regulate, discipline and control every aspect of Aboriginal Queenslanders' lives. The Act was introduced into Queensland and subsequently was followed in other colonies (Queensland State Archives agency ID 10560, Protector of Aboriginals, Boulia). All that was required under the Act of 1897 was an administrative decision authorised by the Minister. Although presented at the time as a charitable, humane and philanthropic measure, the 1897 Act in its practical outcome was oppressive and restricted the freedom of Aboriginal people. From its inception, the Act was used as a device for social engineering and controlling and became an instrument with which Aboriginal people were stripped of the most basic human rights (Franklin, 1994).

The 'Aboriginal Protection and Restriction of the Sale of Opium Act 1897' was an Act of the Parliament of Queensland, it was the first comprehensive Aboriginal legislation passed in Queensland bringing an era of 'protection and segregation' which resulted in the establishment of Aboriginal reserves and missions. JW Bleakley, Chief Protector and Director of Native Affairs from 1913 to 1942 maintained that:

It is only by complete separation of the two races that we can save him (the 'Aborigine') from hopeless contamination and eventual extinction, as well as safeguard the purity of our own blood (Long cited in Chief Protector Report 1919, p. 7).

The Act gave the Chief Protector of Aboriginals enormous control over almost all aspects of the

lives of ATSI people in Queensland through a system of police protectors and reserve superintendents, to control and manage the Aboriginal population deemed to be 'assisted; or 'wards' of the State. The assumption was that Aboriginal people were incompetent to look after their own affairs (Clarke, 2003). This was followed by the enactment of the Aboriginals Preservation and Protection Act on the 12 October 1939. The Aboriginals Preservation and Protection Act represented a change in policy from 'protection and segregation' of Indigenous people to 'protection and preservation' through assimilation into the broader white community (Franklin, 1994).

The enactment of the Aboriginals Preservation and Protection Act allowed for many administrative matters to be dealt with by Regulations which did not require the consent of Parliament. Under this Act, local policemen, police inspectors or Clerks of Petty Sessions were (sometimes unofficially) appointed local protectors. The Protectors power extended to matters dealing with health, education, employment, housing and accommodation, child welfare, personal finances, pensions and benefits, training, finance, property, removals and the issue of Certificates of Exemptions (Franklin, 1994; AIATSIS, 2008). The Act prohibited the practices of certain traditional customs and allowed the Aboriginal Protector to impose penalties for breaches of discipline, neglect of duty and 'insubordination'. This gave powers to the government to make decisions about where Aboriginal people could live, where they could work, how they could spend their wages and whom they could marry (Clarke, 2003, p. 55). Queensland was divided into protectorates, comprising 95 by 1932. My family came under the control of the District Protector of Aboriginals, Boulia, which was established on 25 December 1901 (Queensland State Archives, Agency ID10560) (<http://www.archivessearch.qld.gov.au>).

Even though the Southern States of Australia were colonised in 1788, the white colonisers only appeared in the late 1880s on my great grandparents' traditional lands, in Waluwarra country. Waluwarra country is located in northwest Queensland. Prior to white man coming to my great grandfather's country, my grandfather and grandmother and their children lived a truly traditional life, where their whole lives were governed by traditional Aboriginal law and practices. They roamed free up and down the river before the white man came to the area. My grandfather, my mother's father, was born around 1890. Not only did my great grandfather have to deal with the first contact with the white settlers, they had no choice but to comply with the laws of the Aboriginal Protection Act or face being killed. My mother and her siblings were subject to an act of government, in which their whole lives were controlled. My uncle and aunties referred to this

as the 'Dog Act', in their views they were treated like dogs.

The Aboriginals Preservation and Protection Act of 1939 was abolished in 1965, with the passing of the Aboriginals and Torres Strait Islanders Affairs Act. The Aboriginal and Torres Strait Islanders Act 1965 came into force on 28 April 1965. All districts were abolished and new districts based on Magistrates Courts Districts were created. The office of Protector of the Aboriginals was abolished and replaced by the Department of Aboriginal and Islander Affairs (DAA) (AIATSIS, 2008). I was born in an era where the Aboriginals Preservation and Protection Act, 'the Dog Act', had only just been abolished. My mother was only granted exemption from this Act in 1965. My eldest brother, who is only 3 years older than me was born under this very Act. My father, whose father had successfully been granted a Certificate of Exemption, had to go cap in hand to ask the protector if he could marry my mother. In order for him to marry my mother, my father had to prove that he no longer practiced and participated in his cultural ceremonies and that he no longer spoke his language. He also had to prove that he would live like a white man, that he would not drink alcohol and that he worked, and any ties with his family and country would be severed. People lived in fear of knowing that if they were seen to be doing the wrong thing they would be removed and sent away to faraway places and jailed. I remember my mother talking about growing up not learning her language because she was not allowed to and the old people feared the consequences of teaching their language to the younger ones. I also recall her talking about not being able to participate in ceremonies and corroborees because they could not just get up and go as their lives were governed by the 'Dog Act', Aboriginal Protections Act. While the ideologies of care and protection were espoused by the government at the time, the effects of these policies have impacted on generations of people. So much so, that my mother and many of my elders often talked about how every aspect of their lives was controlled and dictated by government and if they didn't toe the line, they were faced with incarceration. This period of control, regulation and state surveillance had a detrimental effect on the lives and aspirations of Aboriginal people so much so that the level of critical understanding of the impact of colonisation on Aboriginal people and communities is subordinate to the dominant story of the settler state and its achievement, its heroes and its significant sites (Bunda cited in Johnston, Hinton and Rigney, 1997, p. 1).

Following the abolition of the 1939 Aboriginals Preservation and Protection Act in 1965, my mother, father and eldest brothers settled into a small rural north western community of some 200-300 people, of which Aboriginal people made up at least half of the population. After having

her early years dictated by government and witnessing her older siblings and her own mother and father's lives being dictated and controlled by the government, my mother became active and involved in the school and the local Aboriginal community. The level of control and regulation by the government over people's lives and the lack of educational opportunities given to my parents during their younger lives resulted in a real sense of urgency and a need to ensure that each of their children achieved a good education. This was the motivation for them to get involved in the development of services for Aboriginal people within the community. I remember my mother attending meetings to set up and lobby for funding for housing for Aboriginal families living in the town. Prior to this, some Aboriginal families lived on one part of the town and the non-Indigenous families lived on the other side of town, with many of the Aboriginal families living at the compound, the Aboriginal reserve, in housing located out on the fringe of the town until such time as the Aboriginal housing cooperative was set up. We later lived in one of the houses owned by the Aboriginal co-operative. When the housing was set up, Aboriginal families moved into the town area. This is my first memory of an Aboriginal organisation. My mother continued her involvement at the local state school and many years after continued her associations with numerous other schools my siblings and I attended.

Over the years, I have accessed different services provided through Aboriginal organisations; I have also had the opportunity of working with Aboriginal community-controlled organisations in Queensland, remote New South Wales, Victoria, and the Northern Territory. As well as working with Aboriginal community-controlled organisations I have worked as a senior public servant charged with the responsibility for managing and monitoring Commonwealth Indigenous funding and programs. This involved working closely with organisations and other service providers to provide a co-ordinated approach to dealing with issues impacting on Aboriginal communities within the district. In my role as regional manager of the Mount Isa Aboriginal and Torres Strait Island Commission (ATSIC) regional office, I witnessed communities and organisations struggle with the demands of legislative requirements and funding arrangements with little or no knowledge of their legal and statutory requirements. Even though many of these organisations struggled to meet with legislative requirements, not all organisations struggled and some coped very well and have continued to provide important services to their members today. These organisations have managed to play the game and manage their organisations appropriately at the same time meet their obligations to their members as well as government. This has not always been an easy task as often the needs and priorities of government have not

always matched the priorities of communities. As a result, communities and organisations have had to juggle the demands of funding to ensure continuity of programs and services. The continuing changes within government have meant that ATSI organisations have had to change to reflect the priorities and policies of the government.

In my role as regional manager, I worked very closely with the Gulf and Western Queensland Regional Council and administered their decisions. The Gulf and Western Queensland Regional Council formed one of the Regions under the ATSIC framework. This entailed working closely with a number of different types of organisations such as small-family based organisations, local community organisations, regionally-based organisations and organisations that delivered national projects. These organisations delivered on behalf of the Commonwealth government services and programs aimed specifically at ATSI, such as, legal services, the building and construction of houses, plus repairs and maintenance, sport and recreation activities across the region, night patrol, legal services, family violence initiatives, Community Development Employment Program (CDEP), native title and cultural heritage projects. Even though a number of different services were funded by ATSIC, fiscal responsibility for education and health were not. Responsibility for these services remained with the federal government. In order to deal with issues at a local and regional level, I developed and maintained positive working relationships with a number of State and Commonwealth funded organisations and established working partnerships with 10 Local Government Shire Councils, 2 Deed of Grant in Trust (DOGIT) Aboriginal Community Councils and 13 different communities spread across the region. Of the 13 different communities spread across the region, 11 of these were classified as remote to very remote of which 2 of these communities were classified as Deed of Grant in Trust communities. Aboriginal DOGIT land is State land granted 'in fee simple in trust' by the Governor-in-Council under the Land Act 1962 for the benefit of Aboriginal people or for Aboriginal purposes. DOGIT community councils are charged, pursuant to the Community Services Act 1984 with responsibility for carrying out the functions of local government in their council area, in accordance with the customs and practices of the Aboriginal people concerned (Department of Natural Resources and Mines, 2015). This work involved working together with Aboriginal communities and government to resolve issues that related to the funding provided by the ATSIC or on issues which impacted on ATSI people living within their community and also within the region. As well as working with funded organisations and local government, I worked closely with ORAC, and provided advice in regards to local community protocols, access and community

relations within communities across the region.

As an active member of the Aboriginal community and in my previous roles as a senior public servant and educator, I have found that ATSI's want and seek a better life for their families and communities and future generations. Goals are in place. So are expectations. The mechanism through which to achieve them in contemporary Australia is unclear. My experiences have shown that people's lack of knowledge or misunderstandings can be attributed to many factors. These can include: low levels of success within western educational systems generally and a lack of knowledge and understanding of their legislative obligations. I have found that ATSI people generally don't know or understand their statutory obligations and as such struggle with the demands of the legislation and their obligations to both the funding bodies and their constituents. Sullivan (2010) contends that there are rules imposed by the legislation that an organisation incorporates under and there are conditions imposed by various sources of an organisation's funding. If an organisation incorporates under the CATSI Act (previously known as the ACA Act) it is subject to explicit imposition of rules for its structure and for its reporting. Failure to abide these rules can result in the ORAC de-registering the organisation or appointing an administrator (pp. 7-8). In addition to a lack of knowledge and understanding of corporate governance practices, funding guidelines and policies can be complex and for those with very little literacy difficult to understand. This is further complicated as the funding priorities and policies of government do not always reflect the needs of the community or group. This mix match can lead to confusion and misunderstandings which can then impact on the service provisions within the family, community or group. I found that the smaller organisations struggled with the requirements of the Act as they were totally reliant on the skills and knowledge of the committee members and or their paid employee. Many of these smaller organisations were located in small remote communities with some of them being some 800 – 1000 kilometres away from the nearest town or city. Unlike the larger organisations which were mainly based in the bigger towns and who had face to face access to other qualified services such as accountants and lawyers and other services, such as industrial relations, many of the smaller organisations tried to deal with the financial and reporting requirements in isolation. The lack of knowledge of the legislative frameworks and its impact on how organisations are managed, the importance of agreed policies and procedures and clear decision making was clearly evident. I also found that the lack of understanding and knowledge of how to manage organisations was not specific to ATSI people and corporations but was evident in the wider

community as well.

These experiences have shaped my worldview and my ways of knowing, being and doing. My world view informs both the theoretical framework and the methodological approach and consequently the structure of this thesis. These experiences, personal and professional, good and bad, have influenced the way in which I view Indigenous governance and the role of government. Seeing from both sides has enabled me to approach this study from a different perspective, from my own reflexive journey. It is a story of my journey, my experiences, however, cannot be generalised to a population of players, but rather regarded as real experiences that are meaningful in the context of this study. How I approach my research is therefore framed by my identity as an Aboriginal woman, my life circumstances, my era and my professional experiences. It is for this reason that I have chosen to draw upon Indigenous theory which seeks to privilege Indigenous perspectives and interests by providing a lens in which to make sense of how the colonising state talk about ATSI people within unequal relations of power and how power is used to maintain and sustain the social privilege of the non-Indigenous majority in Australian society.

THESIS STRUCTURE

This thesis consists of seven chapters including an introductory chapter which introduces the study and the theoretical framework that guides the study, the literature review and the methodology. In the introductory chapter, I highlight the research question and I discuss in detail my experiences as an Aboriginal woman who has worked closely with and within the frameworks of Aboriginal organisations and how these experiences have influenced the theoretical framework and the methodology adopted in this thesis and my motivation for undertaking the study. I conclude with an outline of the chapters within the study. Chapter 1 outlines and describes the major tenets and theoretical concepts that drive the framework for the investigation of how ORAC, an instrument of government, represents and positions ATSI people. Western knowledge systems are explored and dominant ways of truth making about Indigenous peoples are challenged. Indigenous ways of knowing, being and doing (Indigenous knowledge) are explored explicitly as they provide an opportunity for balancing the two different, and sometimes conflicting, systems of knowing. This framework enables an analysis of the relations between dominant discourses and how such discourses influence the reproduction of ideology and is socially more privileged than others (Martin, 2005; Smith, 1999). It also targets the power

of these foundations which constructs and authorises the dominant Western frames in relation to the position of ATSI people. This has taken me down the path of a decolonisation process which seeks to privilege Indigenous ways of knowing, ways of doing and being (Indigenous knowledge) and provides the framework in which to question and challenge the beliefs and ideologies that continue to underpin the way in which the dominant elite such as ORAC represent and position ATSI peoples. I argue that in order to arrive at a rationale for Indigenous methodologies and to create new ones, we must first understand how these differences inform the manner in which research has been undertaken and how these world views and ways of knowing are maintained and how they construct and authorise dominant Western frames in relation to the position of ATSI people.

Chapter 2 explores through the literature the tensions and contradictions that exist between dominant Western theories of governance and ATSI world views. The chapter proceeds in 3 sections. Section 2.1 includes a discussion on the impact of colonisation on ATSI governance practices and the subjugation of legislation directed at maintaining Western hegemony. It seeks to establish by critically reviewing the literature that Western ways of knowing ATSI people have been shaped and perpetuated by historical, sociological and colonisation forces which continue to inform Western ways of knowing ATSI people in contemporary settings. This helps us to understand how settler/colonial ideas continue to be influential even as political circumstances, policies and political discourse change across time. Section 2.2 explores the divergent theories of governance. I explore the use of key terms, such as governance, corporate governance and Indigenous governance; and I identify 4 different Indigenous governance models. In Section 2.3 I highlight the highly influential Harvard Project into Development on Indian Lands (Harvard Project) and the Australian Indigenous Community Governance Project (ICGP). Section 2.4 seeks to privilege the views and stories of highly influential ATSI people and non-Indigenous advocates. The insights gleaned from both Indigenous and non-Indigenous advocates highlight the impact of Western frames and knowledge on colonisation on ATSI governance practices and in particular how colonialism upholds Western dominant world views. By placing Indigenous knowledge and people in subjective empowered relations, rather than as an object to be acted on inside Western frameworks, this thesis seeks to disrupt Western colonial views by actively engaging and positioning Indigenous knowledge from a position of authority (Philips, 2007; Rigney, 2001; Martin, 2005). This chapter then seeks to privilege Indigenous standpoints as these are crucial to disrupting the colonial frameworks that continue to influence the way in which governments

represent and position ATSI people. Through this, the chapter will then serve the development of an Indigenous research paradigm for use in this thesis.

Chapter 3 describes the research design, and the methodological journey I have taken as a researcher and a participant. It includes a discussion of the data collection process and justifies the use of the ORAC 2005/2006 yearbook as an object of study as it is the last financial year in which ORAC administered the ACA Act, further to this, it marks the end and the beginning of a new era in Indigenous governance. It involves a critical examination of the narrative disclosures and images contained in the annual reports, including the Registrar's Overview. The 2005/2006 ORAC report have been sourced for their richness of text in terms of revealing values, beliefs and frames around ATSI people and governance and they provide an ideal opportunity to identify key themes, trends and discourses in relation to Indigenous governance. In gathering data about the role of the State in Indigenous affairs I draw on previous year's reports and submissions, historical documents, Hansard Reports on capacity building, ORAC submissions to government and formal correspondence to source both historical information on ORAC services and more importantly issues to do with governance and ATSI community organisations. This data enables a contextualized understanding of the social relations producing the conditions in which Indigenous governance is viewed and talked about. I analyse the genre of the ORAC reports and describe the tools for analyzing the ORAC 2005/2006 report. I highlight and discuss how the data will be analysed and I consider the ethical considerations of the research and its potential problems and I conclude with a discussion on the limitations of the study. This study focuses specifically on the annual reports produced by ORAC during the last financial year in which ORAC administered the Aboriginal Councils and Associations Act (ACA Act). This approach will capture a detailed picture of the tensions and contradictions which may affect the relations between Aboriginal people and government.

Chapter 4 engages with and outlines the research context and highlights the historical and ideological debates that shape and constrain Indigenous governance in Australia today. I begin by providing a detailed history of the enactment of the ACA Act and the establishment and the role of ORAC. This provides the context for understanding ORAC, which is the focus of this study. I describe in detail the structure and the role of ORAC and I outline the numerous reviews undertaken as this highlight the thinking at the time in regards to Aboriginal governance and I describe briefly the newly enacted Corporations for Aboriginal and Torres Strait Islander Act 2006 (CATSI Act 2006). I move to a discussion on Aboriginal communities and Aboriginal organisations

and I unpack and problematise the use of the term Aboriginal communities and Aboriginal organisations. This is vital to understanding the conflicting ideologies and tensions that arise when talking about matching Indigenous cultural values and practices against Western legal frames and laws. Knowledge of past interactions and the historical and administrative context in which ATSI people are viewed and represented is vital in understanding the relationships between government and Indigenous people.

Chapter 5 analyses the Data. This chapter focuses specially on the texts contained within the ORAC annual reports. It uses a decolonising framework to highlight discourses of governance embedded within the ORAC reports. I look critically and reflexively at the stories contained within the ORAC reports and deconstruct the frames and discourses communicated by ORAC by analysing the text (what is said and how), talk (who is saying it) and the context (in what time and place) and problematising familiar or “taken for granted” discourses and understandings to see who benefits, how they colonise and marginalise and, as a consequence, what can be done about this, what new ‘voices’ or new relations might emerge. This chapter will move from a description of the “general” structure of the 2005/2006 yearbook to the ‘specific’ excerpts that illustrate the aforementioned discourses of governance. This format is ultimately designed to answer the research question: how does the ORAC represent and position ATSI people? The analysis places particular focus on the use of declarative statements and classifications, the use of euphemistic expressions and the use of expressive modality to sustain and maintain dominant ideologies.

Chapter 6 engages with and critically analyses the visual design and images contained in the annual reports, including not only photographs but non-photographic images. I explore the relationship between the image and the text and how these serve to reinforce cultural myths and stereotypes and subsequently influence the minds and perceptions of the reader and distort meaning (David, 2001).

Chapter 7 the final chapter of the thesis concludes by evaluating the contribution of this thesis to the development of a better understanding of the way in which the settler state represents and positions ATSI people. I conclude this chapter with a discussion of the extent to which the arguments in this thesis might be applicable to other settler colonial contexts.

CONCLUSION

This chapter has provided an overview of the framework in which the research has been

conducted and how the research question was arrived at. It includes an introduction to the relevant theoretical debates that inform both the framework and the methods adopted in this study along with a brief discussion on the background and the contextual information into why and how the study has evolved and its significance. My contribution to new knowledge is that unlike other governance studies that have tended to focus on case studies or policy studies; my research is based on my lived experiences, my personal experience of living and growing up under the remnants of settler colonial policies, such as the Aboriginal Protections Act and my professional experiences as an Aboriginal woman who has been educated in both the old ways and the Western world, who is trying to navigate and understand a Western system that does not reflect ATSI knowledge or ways of being and doing. In order to bring greater authenticity to my descriptions and to challenge existing truths and assumptions, I draw heavily upon quotations from other Indigenous scholars and spokespersons. In doing so, my research extends the literature on how public sector agencies use authoritarian and coercive strategies (discourses) to govern 'others' and makes an important contribution toward understanding how western colonial ideologies have influenced and shaped Indigenous-settler power relations; and it offers readers a new way of re-examining what they know about the governance of Aboriginal peoples.

CHAPTER 1 - THEORETICAL FRAMEWORK

The contemporary context of Australia cannot be understood in isolation from its colonial past (Nelson, 2012, P. 1).

INTRODUCTION

This research is situated in decolonisation, as a theory, trope and project. Decolonisation provides the framework in which to question and challenge the beliefs and ideologies that form the foundation for the way in which the dominant elite such as ORAC represent and position ATSI people. This requires the use of methodologies that privilege and enable voice to be given to Indigenous people and their understandings and that incorporates Indigenous values and beliefs in the design, methods and the analysis (Smith, 1999; Rigney, 1997; Moreton-Robinson, 2000). I draw heavily upon Indigenous ways of knowing, being and doing (Indigenous knowledge) to create a space in which the foundations of the production of western dominant knowledge and social understandings about Indigenous people and knowledge are questioned and challenged. It also targets the power of these foundations which constructs and authorises the dominant Western frames in relation to the position of ATSI people. This framework enables an analysis of the relations between dominant discourses and how such discourses influence the reproduction of ideology and is socially more privileged than others (Martin, 2005; Smith, 1999). The intent is to encourage readers to see the world through the eyes of others and to consider broader ways of understanding and making meaning of this world (Smith, 2005). This conceptual framework chapter creates what Smyth (2004) refers to as the heart of the thesis and will contribute to the emerging development of an Indigenous research paradigm for use in this study.

For this study to maintain its academic credibility, and for it to be taken seriously, the format and style of the thesis will comply with the Western academic traditions. Grande (2005) maintains that whilst knowledge and research practice needs to be positioned inside of the academy, it cannot be defined by the academy. Indigenous research methods and theory are not meant to compete with or replace Western research paradigm, rather, to challenge it and contribute to the body of knowledge of Indigenous peoples about themselves and for themselves and for their own needs as peoples, rather than as objects of investigation (Porsanger, 2004; Louise, 2007; Smith, 1999). This study then draws strength from both the

Western academic traditions and Indigenous ways of knowing, being and doing. 'Indigenous' in this thesis refers to the First peoples of Australian lands and territories and encompasses both Aboriginal and Torres Strait Islander people unless explicitly stated or inferred to the contrary. Australia is made up of two cultural groups, Aboriginal and Torres Strait Islander peoples. Whilst Torres Strait Islander people have their own distinctive cultures they have been subject to the same oppressive legislation and share many of the same disadvantages as Aboriginal people (ABS, 2006). 'Non-Indigenous' is used to delineate newcomers to Aboriginal and Torres Strait Islander territories, whether their arrival occurred more recently or at the time of colonisation (Phillips, 2011). As my thesis is concerned with the way in which government represents and positions ATSI people, and not a particular group of people I have not identified groups by their traditional or Indigenous names and have used the terms 'Indigenous', 'Aboriginal', 'Torres Strait Islander People', and 'native' interchangeably to refer to the communities, peoples and nations who occupied territories and regions prior to colonisation and whom continue to be subject to western dominant frameworks.

Rigney (1997) argues that in order to arrive at a rationale for Indigenous methodologies we must first understand the colonial history of Australia and its impact on its Indigenous peoples and their struggles to be free from colonialism. In 1.1 I review the connection between colonisation and the construction of Western knowledge and the impact this has had on the continued representation and positioning of Indigenous people as 'other' and or problems to be solved, as this is central to the research question (Said, 1978). In doing so, the other confronts and questions accepted assumptions about Western research and literature (Smith, 1999). Section 1.2 justifies and privileges Indigenous knowledge and explores the tensions and contradictions that may exist between Indigenous ways of knowing and dominate Western knowledge. Indigenous knowledge is explored explicitly as it provides an opportunity for balancing the two different and sometimes conflicting systems of knowing. Section 1.3 discusses the influence of alternative theoretical frameworks on the development of an Indigenous framework. Section 1.4 justifies the importance of an Indigenous methodology as a tool for challenging dominant Western frameworks. Section 1.5 justifies the importance of decolonising theory which provides for the analysis of the ORAC report and Section 1.6 discusses the role of the Indigenous researcher within an Indigenous framework.

1.1 THE CONSTRUCTION OF WESTERN KNOWLEDGE

Historically, much of what is written about colonised people and culture is biased and has been constructed from within a Western Eurocentric framework. Blaut (1993) describes Eurocentrism, as the notion or belief that European civilisation or the West has some special quality of mind, race, culture, environment, or historical advantage which gives this human community a permanent superiority over all other communities (p. 1). European knowledge was viewed as being superior to other knowledge in that European knowledge represents rationality, science and reason, while other ways of knowing were constructed as traditional, irrational, spiritual and contextual (Lowman & Mayblin, 2011). According to Blaut's view of history, only Europeans can progress, and Indigenous people are frozen in time; guided by knowledge systems that reinforce the past and do not look towards the future (Blaut, 1993; Battiste, 2002). Those outside the dominant norm are viewed as backward and as passive recipients of European knowledge and segregated as 'others' (Battiste, 2002). From this central position, settler-colonial ideology shapes political, legal, educational structures, systems and institutions maintaining the distinction between settlers and the non- indigenous non-white 'other'. The construction of 'the other' during colonisation was established as a viable binary opposition to the white coloniser whereby Western epistemology silenced Aboriginal voices and subjugated their knowledge (Battiste, 2000).

Social Darwinism and scientific racism provided the scientific and objective ground for the superiority of European civilisation. Scientific research and observations made during the times of colonisation of Australia was used to justify and rationalise acts of conquest, of repression, of exploitation and to justify the atrocities committed in the colonisation of minority groups (Smith, 1999; Dodson 1996; Reynolds, 1987; Tatz, 1991). Scientific observations and research methods, such as codifying, description; systematisation, comparison and theorising were underpinned by an ideology of rendering difference inferior (Smith, 1999). Scientists, explorers, missionaries, academic, medical officers, soldiers and the media worked systematically to destroy local knowledge systems and replace them with Western-derived knowledge systems. Colonised societies and cultures were measured against white Western economic, social and cultural indicators which resulted in the normalisation of an inferior 'other' (Howard-Wagner, 2007). A preoccupation with difference is invariably in one form or another of social pathology, so much so, that Indigenous culture is often pathologised by politicians, bureaucrats, the public and the media and State intervention is seen as the only means of protecting Indigenous people from the governance disabilities of their own culture (Smith, 2010, p. 77).

Grounds and Ross (2010) argue that it became more conventional to envisage Aboriginal culture and technology as an example of the primitive Palaeolithic stage of human evolution and Aboriginal people as humans who had not progressed past this stage. This belief system has been sustained in approaches to producing knowledge about the 'other' and in continuing a dominant way of knowing (Said, 2003). White scientists, parliamentarians, bureaucrats and the media constructed Aboriginal people as a biologically, socially and culturally inferior race – as the most primitive form of mankind, incapable of higher thought and therefore without human rights informed much of the thinking at the time (Howard-Wagner, 2007). Government enacted policies and legislation and institutions made statements about it, authorised views of it, described it by teaching about it, settling it and ruling over it (Smith, 1999). Aboriginal identity was constructed and objectified (McNiven & Russell, 2005, p. 229) and Aboriginal people were consequently seen as the 'other' (Cowlshaw, 1992, p. 20). Such representations were widely accepted and sanctioned by government, institutions, vocabulary, scholarship, imagery, doctrines and colonial bureaucracies (Smith, 1999).

The construction of an inferior 'other' and the myth of the 'hostile savage' in colonising discourses removed any legal recognition of pre-existing laws and systems. These ideologies rely upon a number of assumptions or beliefs about Indigenous inferiority and settler superiority (Lovell, 2007). Indigenous scholar Battiste (2000) makes the point that this ideology seeks to change the consciousness of the oppressed, not change the situation that oppressed the. This has had a powerful effect on Indigenous people and culture and has in effect been used to oppress de- legitimise Indigenous ontology and epistemology (Nakata, 1998; Rigney, 2001). The imposition of this subordinate identity enabled the coloniser to disregard the knowledge and tradition of Indigenous people whilst affirming their imperialistic ideals (Nelson, 2012). The citizenship of Indigenous Australians is marginalised and the authority of the white settler to speak for and to govern ATSI people is reaffirmed (Lovell, 2007, p.4). It is reasonable to assume that if this was the thinking at the time, then it is reasonable to assume that, at the time, the perception was that Aboriginal people occupy a lower position and therefore require assistance from the more capable settler population. Such discourses reflects both the distribution of power and the principles of social control which are situated within the coloniser and were aimed at controlling, excluding and marginalising the Indigenous 'other' from Australian society and sought to legitimise colonisation and domination, and served only to reinforce and normalise the superiority of the dominant colonising culture (Bernstein, 1975; Fanon, 1967;

Nelson, 2012).

During colonisation, the constructions of Indigenous people as being inferior, nomadic and primitive were common discourses. This form of truth became hegemonic and was a justification for colonial rule and exploitation which was motivated and supported by the doctrines of international law that dictated that settlement could only legally proceed by three means: conquest, cession and *terra nullius* (Chalmers, 2005; McRea, Nettheim, Beacroft & McNamara, 2003; Attwood, 2005; Lovell, 2007). The colonisation of Australia occurred under the aegis of *terra nullius*. The declaration of *terra nullius* within the Australian context and the use of western dominant narratives, that Australia *belonged to no one* set the foundation of the justification for the invasion of Indigenous lands (Attwood, 1994) and informed the relationship between Indigenous people and the nation state from its very inception and continues to do so. In seizing what they called empty land, the colonists denied the humanity of their Aboriginal predecessor's very existence (Reynolds, 1987; Castles, Cope, Kalantzis & Morrissey, 1987, p. 5). The view of Australia as no man's land or empty land nullified and invalidated the rights of Indigenous Australians, their culture and their status as human beings (Stadler & Mitchell, 2010; Banerjee, & Tedmanson, 2010). The forced removal of Aboriginal people from their traditional lands under the guise of *terra nullius* during the British invasion of Australia determined the nature of confrontation which followed (Wearne, 1980; Reynolds, 1987). In many cases, first contact was one of violence and 'unofficial' war whereby Australian colonisers justified the extinguishment and removal of Aborigines from whatever means deemed necessary at the time. The impact of violence spread geographically and was much more evident in many remote parts of Australia due to the absence of government administration. The news of atrocity carried the message of atrocity. Settlers regarded their attacks on Aboriginal camps as exemplary violence (Wearne, 1980; Reynolds, 1987). At the time of colonisation, it was genuinely believed that the weaker, inferior black race would inevitably die out and give way to the superior white race; this set the foundation of the justification for the invasions of Indigenous lands (Attwood, 2005; Reynolds 1987). These beliefs were perpetuated through the ways in which knowledge about Indigenous people was collected, classified and then represented in various ways back to the west, and then, through the eye of the West, back to those who have been colonised (Smith, 1999). Many of the publications produced during this time, included a mixture of exploitative and benevolent motives and an interweaving of racial discourses, many of which were standard for the period (Wearne, 1980). Grossman (2003) makes the point that Indigenous resistances were either

denied, absent or invisible in the discourse of Australian settlement and nationhood from the late 1800s to the 1960s (p. 128). Connors (2008) maintains that the refusal by government to acknowledge conflict between Aboriginal peoples and the settler state as 'war' during this period serve only to fuel the myth that there was no Aboriginal armed opposition to the British invasion. Connors (2008) further argues that contrary to this myth there can be no real doubt that from 1790s to the 1920s Australian Aboriginal people actively fought British soldiers, police and British born and Australian born settlers for the control of the continent (p. 27). Other Aboriginal groups throughout Australia resisted the British encroaching on their land in similar ways. According to Connors (2008) one of the earliest documented accounts of Aboriginal resistance was made in 1795 by senior British Officer, Captain David Collins, whom stated that 'open war' had commenced between the Darug people and the settlers along the Hawkesbury River, what is now known as Richmond and Windsor. As pastoralists moved into new parts of the country, violence invariably followed. Due to Queensland being the single most populated colony, colonial Queensland in particular was more violent than any other Australian colony (Ørsted-Jensen, 2011). In northwest Queensland, the Kalkadoon people resisted the invasion of their lands by the pastoralists and miners and frontier violence occurred across North West Queensland from the late 1870s through to the mid-1880s. Frontier violence in Kalkadoon country escalated with the arrival of the Native Police (Queensland Government, <https://www.qld.gov.au/atsi/cultural-awareness-heritage-arts/community-histories-mount-isa>). Aboriginal warfare by the Kalkadoon people held settlers out of Western Queensland for years. The frontier war at Battle Mountain which resulted in the deaths of many Kalkadoon people marked the end of that era of direct Aboriginal resistance. The myth that there had been no form of Indigenous resistance to British invasion was largely unchallenged until 1968 when W.E.H. Stanner coined the phrase 'the Great Australian Silence' and pointed out that most Australian historians had ignored Aboriginal resistance and that in the archives of all the States there was ample material to prove that Aboriginal people fought a very vigorous if unavailing battle to defend their land (Connors, 2008). From the 1970s onwards, various authors turned their focus to Aboriginal 'massacres' in attempt to highlight Aboriginal dispossession. Connors (2008) maintains that it is true that there were many massacres, but to focus on this aspect of frontier conflict alone has the effect of turning Aboriginal people into 'passive victims' who had not made any active attempt to fight the British invasions. It was not until 1982 that non-Indigenous academic Henry Reynolds introduced Australians to the violence that was inflicted on ATSI people during settlement with the publication; *The other side of the frontier: Aboriginal*

Resistance to the European invasion of Australia. The book changed the way in which the history of relations between Indigenous Australians and European settlers was viewed and understood. Even though the narrative shifts around frontier wars and Aboriginal resistance are only just beginning to be acknowledged in this country, stories such as the resistance of the Kalkadoon warriors as a formidable opponent to frontier settlement in 1884 in northwest Queensland and the frontier warfare tactics used by the Darug in Sydney is yet to be formally acknowledged as part of Australia's military history and celebrated by all Australians.

The history of colonialism in Australia has primarily been told by white male historians as a story of white men and unhindered 'settlement'. According to Reynolds (2001), settler superiority was reinforced, constructed and legitimated through the production of countless published and unpublished stories of the heroic gestures of white Australians in wars and battles on the frontier; taming a hostile land and suturing over the forced domestication of Indigenous Australians. The uniformity of this discursive representation is evident in the large number of documents and publications produced at the time, many of which tended to reflect the ideologies espoused by the colonisers and the nature of confrontation and contact with Aboriginal people. The adoption by the States of highly influential reports such as the 1896 "Report on the Aborigines of Queensland", and the inclusion of articles in regards to Aboriginal people in major and regional newspapers reify myths that this continent had 'no history before 1788' (Castles, Cope, Kalantzis & Morrissey; 1988).

These myths were further enforced by people such as Archibald Meston, who claimed to be an authority on the subject of Aboriginal people on the basis of contact and first-hand experience of them. One of the key documents produced by Meston led to the enactment of the *Aborigines Protection and Restriction of the Sale of Opium Act* (Wearne, 1980) which resulted in Meston being appointed as the Protector of Aborigines for Southern Queensland and Dr Walter E Roth appointed Protector of Aborigines for Northern Queensland. The adoption by the State of Meston's *Geographic History of Queensland* as a text greatly influenced and shaped racial attitudes and race relations. Such representations both reflected and influenced government policy of the time, as well as stereotyping and inflaming representations of Indigenous people. Mythic icons and narratives rich in symbolism and metaphor, as such, serve only to reinforce settler superiority and to reify myths and ideologies that Australia had no history before 1788 and that Indigenous Australians were of a more inferior race of people (Furniss, 2001). Myths perform a powerful role in shared identity formation and can serve both social and political

functions; create, sustain, challenge or strengthen values, beliefs, ideologies and power bases (Dean, 2002).

Frontier achievement, initiative and pioneer adventure largely ignored the contributions of Indigenous peoples whereby the majority of publications portrayed Aboriginal people as primitive and inferior. These skewed representations were taken for truth and disseminated as the true history (Poupart, Martinez, Red 12 Horse & Scharnberg, 2000). Such representation permeates Australian society and could be seen in its agencies of schooling, academy and government, so much so, that deeply entrenched negative cultural myths about Aboriginal people still inform many people's understanding of history in Australia (Nakata, 1998; Langton, 2005). These myths function to legitimise colonisation and naturalises white interests (Glover, Dudgeon, Huygens, 2005). Public perceptions of Indigenous culture and identity rely on information that is publicly accessible (Colley, 2002, p. 190, 2007). Bernstein (1975) argues that by only representing one view of truth, Indigenous history is misunderstood, lost and even denied or fabricated. Grounds and Ross (2010) argue that if the information available in publicly accessible discourses is inaccurate, it may encourage misunderstandings in the public arena based on historical misconceptions and stereotypical generalisations (p. 57). Pre-packaged images of Indigenous people reflect both the distribution of power and the principles of social control which are situated within the coloniser and were aimed at controlling, excluding and marginalising the Indigenous 'other' from Australian society and legitimising colonisation and domination and served only to reinforce the superiority of the dominant colonising culture (Bernstein, 1975; Fanon, 1963; Howard-Wagner, 2007).

Van Dijk (2001) makes the point that, if such representations are adopted and supported by politicians, public acceptance of the information can be considerable, particularly, as politicians are seen to be in a position of authority and power and information imparted by them to supporters and the public can be regarded as accurate (Gauthier, 1998). In this regard, the public, politicians and policy makers have accepted the pre-packaged images of Indigenous people and these images become influential in the conditions Indigenous peoples are to encounter in broader society (Ermine, Sinclair & Jeffrey, 2004). According to Leach and Wilson (2000) and Stokes (2000), it is important that in these circumstances that data, which informs politically-charged representations of the past and which are used to create policies about the present, are critically analysed. Attwood (2005) and Cowlshaw (1992) argue that the reinforcement of negative stereotypes of Aboriginal identity through politically charged popular

literature may have far-reaching effects for Aboriginal people and the way they are perceived by the Australian public, in particular, the White Australian identity whose constructions are also dependent on positioning Aboriginal people as the 'other'. Widespread adoption of poorly informed discourse can sometimes lead to potential serious misunderstandings of modern contentious issues (Grounds & Ross, 2010).

Grossman (2003) argues that colonial 'ways of knowing' have never been dismantled in settler colonial states. Stokes (1997) argues that the recent use of ideologies, such as culture as hopeless and inadaptable and failure and corruption in regards to Indigenous governance and management are key features of settler colonial discourses. Lovell (2007) argues that, Australia can be understood as a settler colonial state because it has a history of settlement and colonisation, but more importantly because its politics, law and governance continue to privilege and be substantially based on settler colonial institutions and ideals about ATSI people as first nation people are not recognised (p. 2). Lovell (2007) maintains that; arguments about racial extinction have been replaced by culture-based arguments and Indigenous people's inability to adapt to modern Australian life (p. 4). Furthermore, she argues that colonial 'ways of knowing' are actively reproduced in our present day politics and are not just 'historical artefacts that... linger in contemporary discourse. Settler colonial ideologies have implications for Indigenous policy today, so much so that, negative representations of Indigenous people and the construction of an inferior 'other' and 'problems to be solved', continues to influence current policy, research, government debates and social perceptions in relation to Indigenous Australians.

The recent strategic use of ideologies of Aboriginal cultural dysfunction have been used by the government in strategic ways to justify colonial policies, as seen in the NT intervention whereby Aboriginal communities were described as 'crisis area' and Aboriginal affairs declared a 'national emergency'. Such negative images and attitudes about Indigenous people reproduce settler colonial representations of Indigenous people as primitive and lazy. More concerning is that the negative representation continues to have influence beyond their spatial and temporal origins and effectively disempowers and silences Indigenous voices (Ermine, Sinclair & Jeffrey, 2004; Lovell, 2007). The impact of colonisation and Western ideologies has a very specific relevance here. These inherited frameworks, worldviews and discourses demonstrate how knowledge and power are tied together within a colonial context and how these constructs have informed and reinforced the dominance of the settler state in this country. The disempowerment and

silencing of Indigenous knowledge have been achieved in large part by hegemonic colonial research which casts Indigenous peoples into the role of 'needy, helpless victims (Ermine, Sinclair & Jeffrey, 2004). This period marked the era of state surveillance and control and Indigenous truth, worldview and knowledge were oppressed and western ideologies were enforced (Smith, 2008). This has resulted in the marginalisation of Indigenous knowledge in public spheres and the dominance of the colonisers is expressed in control over the validation of knowledge. This marginalisation is magnified by the absence of Indigenous perspectives and knowledge. The privileging of Indigenous theory and knowledge disrupts such views by placing Indigenous knowledge and people in subjective empowered relations, rather than as an object to be acted on inside Western frameworks (Philips, 2011, p. 113).

In order to unpack the 'grand narrative' and to disrupt processes of othering (Sonn, 2012, p. 3) it is necessary to create a space in which Indigenous ways of knowing, being and doing is privileged and valued. I adopt a less Eurocentric (more Indigenous) perspective on knowledge and draw upon various Indigenous authors to place in context the meaning of Indigenous ways of knowing, being and doing within Australia. In doing so, I lay out a conceptual map for establishing some decolonising bridges. My thesis adds to the body of knowledge that challenges white settler representations of Indigenous people. This research is presented as another narrative to develop the understandings, tools and language for challenging race privilege.

1.2 INDIGENOUS KNOWLEDGE

Prior to colonisation Indigenous epistemologies (ways of knowing), ontologies (ways of being) and axiologies (ways of doing) were predicated on societal relations with country (Martin, 2008; Rigney, 1997; West, 2000; Nakata, 2007; Moreton-Robinson & Walter, 2009; Porsanger, 2004). Aboriginal knowledge was collectively owned (Janke, 2005). Indigenous culture and ways of knowing, doing and being were transmitted through a complex nexus of communal, natural and spiritual orders and established relationships (HREOC, 2008). This knowledge was developed from experience gained over centuries and adapted and passed down through stories, values, rituals, language, dance and the arts. It is handed down orally from generation to generation and is transmitted and preserved in that way (Berndt & Berndt, 1992; Battiste, 2002). The younger generations learnt from the older generations through participation, observation and imitation and Aboriginal people relied on their own memories to store and retrieve information when

required (Gorman & Toombs, 2009; Commonwealth of Australia, 1992). Certain types of knowledge, such as law and cultural business were organised and managed through relationships and traditional ceremonies or business. Some individuals and families protected particular knowledge (stories, lores) while others protected other types of knowledge (dance); these individuals had and continue to have the responsibility of keeping and passing on this knowledge. Everyone has a role to play and not one person becomes the keeper of all knowledge and no one person knows all but each has sets of knowledge's to fulfil particular roles. In those communities where traditional Aboriginal law is still upheld this is still maintained. I know through growing up with my elders and being taught the old ways that certain knowledge was passed on only to those whom the elders deemed worthy of knowing and continuing the lore. Responsibilities and obligations were based on one's relationship within the group and membership was based on place, lineage and position rather than the development of an agrarian society (Dudgeon, Wright, Paradies, Garvey and Walker, 2010). As stated earlier in the introduction, this practice is still continued today and it is an important protocol that my family and I continue to practice when we are in the company of our old people and or in those communities where traditional law and culture is still practiced today.

The call for greater recognition of Indigenous knowledge is not new (Rigney, 1997; West, 2000; Martin, 2003; Smith, 1999). Rigney (1997) argues that Indigenous Peoples think and interpret the world and its realities in differing ways to non-Indigenous Peoples because of their experiences, histories, cultures and values (p. 635). West (2000) describes Indigenous knowledge as first knowledge; it includes both traditional and contemporary knowledge and encompasses many forms. He describes 'first knowledge' as the totality of Aboriginal thought, conceptualisation, psyche, morality, behaviour, social order and humanity that transcends the 'socio' and 'psycho' sciences of non-Indigenous society. West (2000) argues that Indigenous knowledge can be synthesised into the following tenets:

Indigenous peoples have complex systems of knowledge that govern how we relate inside Indigenous contexts and how we conceptualise and relate to non-Indigenous knowledge systems;

Knowledge perspectives on colonialism facilitate our cultural survival;

Intimate connections exist between knowledge, law and land for Indigenous peoples which contradict non-Indigenous systems of knowing;

Knowledge is expressed and produced inside systems of relationships that take into account notions that ownership of knowledge resides in the collective, not with individuals;

Relationships inside knowledge contexts advance knowing and vice versa;

Questions are positioned to prepare and make ready individuals for knowledge and not as a means to 'discover' the right answer; and Secret knowledge; knowledge of the self is to be kept in context.

Through this lens, Indigenous knowledge perspectives are essentially shaped by Indigenous epistemology and Indigenous world views: ways of being, knowing and doing. It is how people make sense of their world. Indigenous knowledge, therefore, envelops all things that are known by Indigenous people.

Indigenous scholars Martin (2008) and Barnhardt & Kawagley (2005) argue that many of the core values, beliefs, and practices of Indigenous ways of knowing and ways of being have been maintained and are reflected in our ways of doing. Indigenous "*ways of knowing*" refers to teachings, languages and cultures, and knowledge; it refers to ways knowledge is learned, retained, expressed, expanded and contracted according to Indigenous contexts. "*Ways of being*" refers to thinking with Indigenous terms of references and worldview and evaluating and validating Indigenous ways. Our ways of being shape our ways of doing. The concept of "*Ways of doing*" is described as the facilitation of learning from a cultural or traditional place as well as the everyday ways of a group (Martin, 2003). Indigenous knowledge is developed throughout a person's lifetime, through socialisation, connected through kinship systems and relationships and how people use these experiences to make sense of their world. Martin (2003) maintains that the conditions under which people live and learn shape both their knowledge and their world views. Anything else, argues Martin (2003), is an imposed view. Martin (2003) summarises these shared positioning in five theoretical principles:

recognising our worldviews, our knowledge's and our realities as distinctive and vital to our existence and survival, which serves as a research framework;

honouring Aboriginal social mores as essential processes through which we live, learn and situate ourselves as Aboriginal people in our own lands and in the lands of other Aboriginal peoples;

emphasising the social, historical and political contexts which shape our experience, lives, positions and futures;

privileging the voices, experiences and lives of Aboriginal people; and Aboriginal lands;

identifying and redressing issues of importance for us (p. 205).

Whilst the holistic nature of Indigenous knowledge sometimes conflicts with scientific and Western knowledge production and acquisition where knowledge is gained through research and texts, there has been a significant 'paradigm shift' and Indigenous knowledge and ways of knowing are being recognised as just as valid for today's generations as they were for generations past and is not to be dismissed if it contradicts or is not explicable in Western academic terms (Barnhardt & Kawagley, 2005; Nakata et al 2009). Even though many Indigenous languages and traditional practices have been eroded as a result of the oppressive and destructive effects of colonisation and the assimilation policies of federal government, Indigenous people throughout the world have sustained their unique world views and associated knowledge systems and many of the core values and beliefs associated with those worldviews have survived, even while undergoing major social upheavals as a result of transformative forces beyond their control (Barnhardt & Kawagley, 2005, Battiste, 2002). Indigenous epistemology then is a philosophy of what counts as knowledge and 'truth'; it is a strategy by which beliefs are justified (Strega, 1999, p. 2001). In this section, I have discussed the difference between Western knowledge and Indigenous knowledge and how they contribute to the way in which we view and perceive knowledge. This is particularly relevant to the study as it challenges Western knowledge and ideologies and what is viewed as the norm and is central to theorising alternative pedagogies and methods, which, I discuss briefly in the following section.

1.3 ALTERNATIVE FRAMEWORKS

Research is not an innocent or distant academic exercise but is an activity that occurs within a set of political and social conditions that has something at stake and occurs in a set of political and social conditions (Smith, 2012, pp 1-3). Research is never simply descriptive of a 'problem' or issue; it always signals a politics (Bacchi, 2012, p. 5). Smith (1999) argues that research through colonial eyes is imbued with an 'attitude' and a 'spirit' which assumes certain ownership of the entire world. It is these practices that determine what counts as legitimate research and who

counts as legitimate researchers (p. 56). Moreton-Robinson & Walter (2009) argue that research itself is a site of contestation and will continue to be viewed with suspicion and hostility by Indigenous people as research is another Western practice that creates unequal power structures in that research is still regulated through the formal rules of individual scholarly disciplines and scientific paradigms and the institutions that support them (including the state). Research has silenced and distorted the experiences of the colonised, often taking a deficit-informed approach to explaining their lives and experiences. In this process, indigenous ways of knowing have been excluded or trivialised. Foucault (1980) refers to this as 'subjugated knowledge'. It is from within this space that Indigenous people have openly challenged and questioned the research community and have looked to other disciplines as a means of challenging and exposing the different research paradigms which have sought to keep Indigenous people in their place. Gaining control of the research process has been pivotal for Indigenous peoples (Strega & Brown, 2005).

In my quest to identify a research paradigm which would allow me to question and challenge the dominant colonial discourses from an Indigenous viewpoint, I discovered that even though Western research on Indigenous communities and people are well documented there is a quantifiable absence of Indigenous knowledge, perspectives and understandings within the dominant research practice (Moreton-Robinson & Walter, 2009). In order to challenge and change dominant western knowledge and frameworks, I looked to different disciplines and research theories that appeared to be inclusive of Indigenous realities and that were grounded politically in specific Indigenous contexts and histories, struggles and ideals. I was initially drawn to the ideologies of critical theory and feminism which historically established a position of resistance (Ristock & Pennell, 1996; Smith, 1999) and which created a space in which to talk more creatively about research with particular groups and communities, women, economically oppressed, ethnic minorities and Indigenous people.

Critical theory is a social theory oriented toward critiquing and changing society as a whole in contrast to traditional theory oriented only to understanding or explaining it (Lindlof & Taylor, 2002). Critical social theory which emerged around the 1920s is politically motivated to draw attention to injustices within society and raising people's awareness of the hidden power imbalances. Issues of hegemony, power and disparity are often the subject of examination (Rigney, 1997). Freire (1972), a critical theorist was concerned with how oppressed people can become accepting of their position and eventually internalise their own oppression (Fay, 1987).

Critical theory seeks to interpret the acts and the symbols of society in order to understand the ways in which various social groups are oppressed (Vimbi & Victor, 2014). Critical theory then seeks to be emancipatory by critiquing existing social relations in order to transform them and to free individual groups and society from conditions of domination, powerlessness and oppression (Mullaly, 1997) and is a useful framework in which to question and challenge dominant frames and discourses. This methodology has application to Indigenous research contexts, as it does not just describe research it uses research to redefine social theory by challenging existing relations of dominance and subordination and is much about empowering the marginalised as it is about promoting action against inequities (Carspecken, 1996, p. 3).

Feminist standpoint theory which emerged in the 1970s has remained grounded in a predominantly white, middle-class struggle to gain equality within existing social structures and has been viewed as being critical in helping the marginalised move beyond exploring the realities to interrogating and theorising them (Grey, 2004). Feminist epistemology includes feminist standpoint theory, feminist empiricism and feminist postmodernism all of whom use gender as the focus of their analysis in combination with other theoretical insights (Moosa-Mitha, 2005, p. 52). Feminism has been presented as an epistemology, a methodology and a political strategy. Feminism posits male domination through patriarchy as the source of women's oppression and seeks to challenge the relations between the production of knowledge and practices of power. Harding (2004) maintains that feminism explicitly serves emancipatory ends by contesting hegemonic and dominant constructions of gender; seeks to position and shape research from the vantage point of women's lives and challenges the neo-colonial dominance of research (p. 2). Feminism then seeks to position and shape research from the vantage point of women's lives and challenges the neo-colonial dominance of research by challenging the relations between the production of knowledge and the practices of power. Feminism is not a uniform or homogenous theoretical tradition. It embodies diverse currents of thought and accommodates internal difference of perspective. This has made it a popular methodology for many Indigenous research projects.

In more recent years, feminist theory has come under criticisms by Indigenous researchers such as Moreton-Robertson (2009) who maintain that feminist standpoint is often blind to the manifestation of white race privilege in and through the relations between white and Indigenous women. Indigenous women's standpoint differs to feminist standpoint theory in that Indigenous women's position is based on racial oppression. Whereas white feminists were

debating whether women's roles in the home were 'natural or constructed' they overlooked the plight of Black women in Western societies who did not have the relative privilege of having the choice to stay at home (Moosa-Mitha, 2005, p. 54). Grey (2004) argues that feminism has neither sufficiently examined differences between and among women nor adequately considered the historical and specificity of native identity and as such do not embrace Native identities as it is not conducive to dialogue between feminists and Native women as it denigrates Native voices. Instead, many Aboriginal women theorise and act in public life from a standpoint that presumes decolonisation. Standpoint theory is both explanatory and normative.

Whilst the conceptual framework of feminism and critical theory provide an alternative to the traditional mainstream theories and is motivated by emancipatory claims they were deemed not to be appropriate for this study as the conceptual frameworks promote historically distinctive institutional and cultural interests and concerns which ensure that the knowledge produced through them is always socially situated and the experiences of those on the margins have been silenced or trivialised. Moosa-Mitha (2005) argues that both critical theory and feminism overlook the socio-political realities and oppression that individuals and collectivities experience on the basis of their 'multiple differences' from the white, male heterosexual norm. Further to this, they fail to take difference seriously (p. 37). The dominant situation enables the production of distinctive kinds of knowledge. All too often these interests and concerns are counter to ATSI needs and desires (Harding, 2004). An oppressed group's situation is different from that of the dominant group. For instance, stories of colonisation are different from an Indigenous perspective to that of the colonisers. It is from within this space that Indigenous scholars have begun to address social issues within the wider framework of decolonisation. Decolonising research is congruent with Indigenous epistemology and is guided by the values and research agenda of Indigenous peoples (Prior, 2007). Indigenous research is decolonising research; decolonising research seeks to decolonise, heal, transform and mobilise Western research practices by reframing and reclaiming control over Indigenous research practices and methodologies. It challenges academic institutions to take on non-Western ways of knowing, learning, teaching and being and to give up power and privilege (Smith, 2002). Smith (1999) maintains that in order to give testimony to the injustices of the past by reclaiming the past and telling our stories by privileging Indigenous voices and experiences as a voice of authority, it is necessary to decolonise the minds of the colonisers.

1.4 INDIGENOUS RESEARCH METHODOLOGIES

From the outset, Western colonial research methodologies have not served Indigenous peoples well; this has contributed to the marginalisation of Indigenous community interests (Rigney, 1999). Too often, the non-Indigenous researcher appropriates the cultural knowledge and experiences of their Indigenous participants, and then, using the theoretical frameworks of Western knowledge, reinterprets those experiences and presents it as their own (Wright, 2011, p.28). In order to move beyond research methodologies that have sought to subjugate and marginalise Aboriginal people, Indigenous researchers have embraced an Indigenous research framework that involves *rewriting* and *rerighting* the Indigenous in history and society (Smith, 2012). This entails employing Aboriginal ways of knowing, being and doing as the theoretical basis for my research. Rigney (2001) argues that there are a number of significant dimensions to Indigenist research that set it apart from traditional research: Indigenous methodologies seek to be emancipatory, empowering, ethical and holistic and involve Indigenous people applying their own lenses, perspectives and understandings to social research and methodologies (Rigney, 2001; Moreton-Robinson & Walter cited in Walter 2009). Indigenous methodologies approach cultural protocols, values and behaviours as an integral part of the methodology and in doing so seek to privilege Indigenous voice and recognises all knowledge as socially situated, partial and grounded in subjectivities and experiences of everyday life (Smith, 2003; Rigney, 2001; Porsanger, 2004). This can occur not only through the development and incorporation of an Aboriginal theoretical framework but also the implementation of cultural protocols and guidelines embedded within the research process (Smith, 1999).

Smith (2002, 1999) maintains that Indigenous research is decolonising research and calls upon readers to look through the lens of the colonised to see and feel the ways in which Indigenous people, the colonised were taken advantage of and to address the problems so that the cycle does not perpetuate itself. Smith (1999) maintains that transforming our colonial views of our own history (as written by the West), requires us to revisit site by site, our history under western eyes. Indigenous methodologies then reflect our epistemologies (ways of knowing), our axiologies (ways of doing) and our ontologies (ways of being) and apply it to the research process (Martin, 2008; Rigney, 1997; West, 2000; Nakata, 2007, Moreton-Robinson & Walter, 2009; Porsanger, 2004). Martin (2003) argues that Indigenous frameworks recognise our worldviews, our knowledge and our realities as distinctive and vital to our existence and survival. It seeks to honour Aboriginal social mores as essential processes through which we live, learn and situate ourselves as Aboriginal people in our own lands and in the lands of other Aboriginal people. It

emphasizes the social, historical and political contexts which shape our experience, lives, positions and futures and it privileges the voices, experiences and lives of Aboriginal people and Aboriginal lands.

Rigney (2006) argues that indigenous research is research undertaken as part of the struggle of Indigenous Australians for recognition of the right of self-determination and de-colonisation. It is research which focuses on the lived, historical experiences, ideas, traditions, dreams, interests, aspirations and struggles of Indigenous Australians. It is research by Indigenous Australians whose primary informants are Indigenous Australians and whose goals are to serve and inform the Indigenous struggle for self-determination (Rigney, 2006, p. 634). The calls for emancipatory methodologies and greater recognition of Indigenous methodologies seek to privilege Indigenous voices, have political integrity and view resistance as the emancipatory imperative (Rigney, 2006). Similarly, Nakata (1998) argues that Indigenous methodologies allow Indigenous scholars the language and theoretical skills to articulate their own intellectual position in relation to such representations. Porsanger (2004) (a Norwegian scholar) makes the point that Indigenous methodologies enable Indigenous peoples from around the world to also apply their own lenses, perspectives and understandings to social research and methodologies. She describes this as making visible what is meaningful and logical in an Indigenous context and applying this to the research process. Smith (2001) argues that we need to take back control of research so that it is relevant and useful to us. Smith (1999) refers to this as “researching back”. Indigenous scholar, Grande (2005) argues that researching back not only requires us to converse in the grammar of the Western world it requires us to develop skills to contest it. In order to contest it, it is essential to gain control of the research process and to write from the perspective of the colonised by placing Indigenous voices and epistemologies in the centre of the research process. In this context, an Indigenous framework is important as it provides the tools to contest colonialism and counteract the naturalisation of particular beliefs within Western educational spaces that have marginalised Indigenous knowledge (Rigney, 2001; Smith, 1999).

The pedagogical implication of access to alternative knowledge is that they can form the basis of alternative ways of viewing and doing things. It questions assumptions about the nature of research and knowledge and adds to the diversity and understanding within the academy (Smith, 2005; Martin, 2003; Sandri, 2013). Indigenous research then offers a process for examining our experiences of colonisation and building confidence of and within our cultural ways of knowing, being and doing (Rigney, 1997). Indigenous research methodology then does not just describe

research it uses research to redefine social theory and colonisation and allows me to speak from within a space that empowers and legitimises the voices of Indigenous people. By placing Indigenous voices and epistemologies in the centre of the research process, we can examine the underlying assumptions that inform research and challenge the widely accepted belief that Western methods and ways of knowing are the only objective, true science (Simonds & Christopher, 2013). The inclusion of lived, historical experiences, ideas, traditions, dreams, interests, aspirations and struggles of Indigenous people not only gives voice to Indigenous people, it is also a tool of resistance (Rigney, 1997). By situating my research within an Indigenous framework, I am able to manage the effects of dominance in a personal sense by challenging dominant Western knowledge and frames.

The long-standing struggles of marginal groups through time are often absent from the narratives of the general public (Stone-Mediator, 2003, pp. 140-142). Events in history that tend to become a part of the general consciousness are specific sets of actions, taken by recognisable actors, within a generally short period of time, and that have a recognisable outcome. In Bruner's view (1991) narratives offer power to the marginalised so that their voice can be heard. Most importantly, though, when storytellers situate these experiences historically, they provide a new lens through which to view muted tensions and ambiguities and bring into public view the social pressures and social alternatives that have shaped many people's daily lives but that have been systematically omitted from ruling narratives (Stone-Mediator, 2003, pp. 158-159).

Telling our stories from the past, reclaiming the past, and giving testimony to the injustices of the past are all strategies which are commonly employed by Indigenous peoples struggling for justice (Smith, 1999, pp 34-35). Storytelling offers power to the marginalised and encourages and allows us to continue to hear and document our truths (Denzin, 2009). As a vehicle for the voice of marginalised people, storytelling is a useful tool for looking at the rhetoric of social movements and can also provide a means of teaching about resistance to colonialism. Stories enable the storyteller to construct a narrative that is particular, personal and contextualised in time and place. Time and place provide a setting for the plot and character. Context enables the researcher to make meaning where previously there was no meaning. In this study, I am the storyteller. I use stories to connect the past, the present and the future by representing and privileging the Indigenous view of the world. It is my responsibility to gather and analyse the data to reveal meaning and to make sense of past experiences in the context of our present situation. Storytelling not only enables ATSI people to tell their stories from their own point of view, but it

provides a tool to question and challenge stories which conflict with their own experiences (Kramp, 2004, p. 4; Patton, 2002). In this study stories have been used to combat and attempt to change the dominant conceptual frameworks that symbolically hold Indigenous people in an oppressed position (Bruner, 1991).

An Indigenist framework then is important as it privileges Indigenous perspectives and interests and prioritises the place of Indigenous peoples before, during and after colonisation and provides the tools to contest colonialism and counteract the naturalisation of particular beliefs within Western educational spaces that have marginalised Indigenous people and Indigenous knowledge (Rigney, 2001; Smith, 1999; Brown & Strega, 2005). The intent is to create new knowledge and to challenge the dominant frames and what are known as 'problem' discourses that position ATSI people in unequal relations of power (Brown & Strega, 2005). It is for these reasons that an Indigenous framework is applied to this study, so that the voice of the marginalised become legitimate and be heard and to take the voice of those in power into question to reveal hidden agendas and motives that serve self-interest, maintain superiority and ensure other's subjugation (McGregor, 2003). I acknowledge and draw from the contributions of other ATSI people in order to give voice to and to include the perspectives of other Aboriginal people. Their contributions to the debates around Indigenous governance have contributed to and have shaped the way in which I have approached the research and my interpretation of the data. This has resulted in a body of literature by Aboriginal writers, researchers and scholars and has influenced the development of an Indigenous research framework and ethics framework, which I refer to in chapter 4 the Research Design. Even though I have not conducted research in or on ATSI people directly (as part of this thesis) I am still required to negotiate a space between the academic traditions and Indigenous traditions. I am equally informed by my own cultural experiences and western experience and I acknowledge both. As this study seeks to understand how discourses and frames represent and position ATSI people, the research will be carried out with an insider perspective.

1.5 DECOLONISING THEORY

Decolonising theory recognises that Indigenous people view the world differently to that of the more dominant western cultures and is concerned with the 'undoing' of colonisation and disrupts taken-for-granted epistemologies by challenging those practices that perpetuate Western power by misrepresenting and denying Indigenous voice and identity (Smith, 1999).

Decolonising theory privileges Indigenous interpretative pedagogies and inquiry practices and is grounded within the traditions of critical qualitative theory and has been described as a process that critically engages, at all levels, imperialism, colonialism and post-colonialism (Smith, 1999, 2012). Smith (1999) suggests that a decolonising framework is as much a conceptual framework as a recipe in which theory and method are intertwined. It does not constitute a single agreed upon set of guidelines or methods. It does, however, provide a perspective that differs from Western empirical science and provides a space in which Indigenous theory and ways of knowing and doing are integral to the research process and Indigenous people from around the world can speak from and be empowered. Harding (1987) likens it to the feminist view that one's theoretical lens ought to guide the research methods as, methodology encompasses not only the mechanisms of research but 'how research does or should proceed' (p. 3). Decolonising epistemologies are weaved through the research design, data collection, analysis and representation (Smith, 2012).

A decolonisation analysis advocates for a worldview that encompasses Indigenous knowledge's and privileges Indigenous voices while at the same time critiquing domination and oppressive systems. In order to privilege Indigenous voices, I draw heavily upon the stories/narratives of other ATSI people as both a frame of reference and a way of reflection during the inquiry process. Stories/narratives are complex, powerful, transformative and interdisciplinary by nature and as such are informed by numerous theoretical orientations and a mode for representing the research study (Denzin, 2009). *Stories* (Wooginna in my mother's traditional language, Waluwarra), aligns with the oral and cultural storytelling traditions of Indigenous cultures. In Indigenous cultures, stories are multi-layered systems of meaning, relationships, lore's and morals and are used as a tool to reinforce identity, connections and relationships by teaching about traditional ways of culture and knowledge. I relied heavily on the stories and the voices of Indigenous people around the world to challenge the myths and ideologies contained within key government reports, such as the ORAC yearbooks and annual reports. By including these stories, I seek to create a public space requiring others to hear them; this is congruent with decolonising aims (Denzin & Lincoln, 2008b). In doing so I privilege the oppressed Indigenous world view and ways of knowing, being and doing by encouraging readers to look differently at the way in which they view and talk about Indigenous people and their governance practices (Smith, 2005).

Rigney (1997) argues that in order to privilege Indigenous epistemologies and methodologies Indigenous people must be involved in defining, controlling and owning epistemologies and

ontologies that value and legitimates Indigenous knowledge and perspectives by infiltrating the research academic structures and methods and being cognisant of the forces shaping Western methodological frames. It is from within this space that Indigenous people have begun to assert and reclaim the Indigenous perspective on research by challenging and questioning the research community which has sought to keep Indigenous people in their place.

1.6 **ROLE OF THE INDIGENOUS RESEARCHER**

The role of the Indigenous researcher is pertinent to decolonising research practices. The insider, as researcher, enriches data by bringing voice and the unique cultural lens as well as historical understandings to the position of the researched. Smith (2007) argues that when Indigenous people become the researchers and not merely the researched the activity of research is transformed. Questions are framed differently, priorities are ranked differently, problems are defined differently and people participate on different terms (p. 193). The way in which we design research, collate and analyse data is informed by the way a study is theoretically framed which, in turn, is influenced by the researchers own ideological assumptions and values (Kincheloe & McLaren, 2003). It is the researchers lens that will guide him or her in determining which issues are important to study (e.g. Indigenous decolonisation); the participants one ought to include in the study (e.g., role of government); the role of the researcher in relation to the research participants (e.g., subjectivity acknowledged and honoured); and, finally, theory will determine how research is presented and written up (Denzin, Lincoln & Smith, 2008; Creswell, 2003). It is from within this space that Indigenous researchers have begun to assert and reclaim the Indigenous perspective on research and to address social issues within the wider frameworks of self-determination, decolonisation and social justice.

More importantly, it gives voice to and privileges Indigenous knowledge (Martin, 2003; Rigney, 1997). Patton (2002) argues that 'insider' researcher is not '*othered*'. My cultural and familial upbringing adds to the diversity of influences on my thinking and this shapes the way the research is designed. In this regard, I enter this research with an Indigenous worldview which can be considered emancipatory in this sense in that it provides a framework in which to push boundaries in order to create an intellectual space for Indigenous cultural knowledge systems that were previously denied in the past and which have contributed greatly to tensions around what is valid knowledge and what is not (Rigney, 2001). The epistemological assumption at the outset of this study is that I will interact with the research by bringing my own worldviews into a

relationship with it. My position is therefore informed by my social and professional experiences as an Aboriginal woman and because of this positioning; it is not possible for me to be completely objective when exploring the lives and experiences of my people.

In positioning myself as an Aboriginal woman I acknowledge and claim my Indigenous bias as belonging to my genealogical, cultural and political set of experiences. Both my parents are Aboriginal and through them, I belong to four different major 'tribal' groups (Waluwarra, Alawarra, Yirendali, Nyuan), and have close links to all four of these groups and others. My sense of place has been firmly grounded by both sets of parents. My obligations and cultural connections to country are through both sets of parents. In order to be able to deal with the complexities of our modern world, my parents instilled in me the importance of a western education and the importance of gaining access to and knowledge of the mainstream so that we could cope with and compete in the wider community as equals and so that we were in a position to challenge the frameworks and status quo set up to keep us in our place as Aboriginal people. At the same time, my parents have taught and have shown me the old ways of knowing and doing so that I do not get lost in the Western world and my Indigenous culture and perspectives are not disregarded and or lost. I maintain and continue to carry out my cultural and traditional protocols and practices and ways of knowing, being and doing and pass these onto my children. Like many other Indigenous scholars I have become skillful in both worlds; and depending on where I am, I act and speak differently depending on the context and the position I am placed in both the Indigenous context and the Western context.

Smith (1999) argues that there is a view that our Western education precludes us from writing or speaking from a 'real' and authentic Indigenous position. Just because you are Aboriginal or identify as Aboriginal does not mean that one is automatically accepted or acceptable within an Indigenous community. Sandri (2013) argues that whilst both researcher and researched share an Indigenous context, Indigeneity does not automatically imply insider status to a community although we do share the *other* context. This is particularly evident in communities where the researcher has no personal relationship to the community being studied. In these cases, the Indigenous researcher will need to factor into their research projects, timeframes and issues around protocols and identifying and establishing relationships within the community. I, like many other Indigenous researchers, do not speak for all Aboriginal people; I speak only to my own experiences, worldview and knowledge.

One of the criticisms of being labelled as an Indigenous researcher is that Indigenous research methodologies do not claim objectivity or neutrality and the researcher is biased towards their own worldview as many of the cultural and spiritual practices of Indigenous people are not always apparent to the outsider (Bruner, 1991; Nakata, 2007). Culture is invisible to its insiders and even though it can appear to be neutral it is biased within its own lens, discourse and ontology (Bruner, 1991). Research by Indigenous scholars can be such that, the issues are not clearly identified and described objectively. In order to undertake transformative research, Indigenous researchers must assume a position of privilege and power whereby Indigenous engagement, consultation, collaboration and ethics and protocols are an integral part of the research design and process (Nakata, 2007).

In more recent decades Indigenous scholars have sought to challenge, deconstruct and decolonise traditional ways of knowing while developing 'methodologies and approaches to research that privileged Indigenous knowledge's, voices and experiences' (Smith, 2005, p. 87). An alternative framework which focused on transforming the effects of colonisation by making Western systems of knowledge the object of critique and inquiry by challenging colonial capitalism and Eurocentrism by placing the politics of Indigenous identity at the centre of the research and incorporating Indigenous knowledge and protocols into the research process and re-telling history from an Indigenous perspective was therefore identified and applied to this research thesis (Smith, 2003; Swadener & Mutua, 2004; Martin, 2003; Rigney, 1997; Smith 1999).

1.7 CONCLUSIONS

The position of Indigenous Australians has changed greatly and Indigenous Australians are intervening and taking greater control over the way in which they are represented and positioned by theorising Aboriginal experiences and making visible the challenges that frame and privileges the colonisers and exploits and disadvantages all others. In order to question and challenge the images and representations of Aboriginal peoples that predominate in media, popular culture, and research studies; I have sought to write from the perspective of the colonised by providing an overview of research theories and methods that have influenced and shaped the way in which this thesis is structured and argued. By placing Indigenous knowledge and people in subjective empowered relations, this thesis seeks to disrupt western colonial views by actively engaging and positioning Indigenous knowledge as authority (Philips, 2007). The inclusion of Indigenous theories and methods assist in reframing policies in emancipatory

ways, subverting repressive policies and in reading them 'against the grain' (Taylor, 2004). The ideologies and principles advocated through decolonising theory provide a framework in which Indigenous researchers can keep social justice issues on the policy agenda and help to ensure that emancipatory goals/language do not get lost in the production and implementation processes (Smith, 1999).

CHAPTER 2 - REVIEWING THE LITERATURE

INTRODUCTION

In the previous chapter, I introduced the theoretical framework and the lens used throughout this study. This chapter explores through the literature the tensions and contradictions that exist between Western theories of governance and ATSI worldviews. The literature suggests that the term governance can be used in many different ways and means different things to different people, depending on whose lens you are viewing it through. Within the Australian context, the use of the term 'governance has been translated in divergent ways and depending on whose lens you are viewing it through, it has different connotations for ATSI people, government and the private sector. For example, ATSI people have incorporated it into their political, local and organisational agendas, governments have incorporated it into their policy making, service-delivery and funding frameworks and the private-sector have incorporated it into their negotiations and agreement making with ATSI peoples (Smith, Bauman & Quiggin, 2014). This chapter then seeks to privilege Indigenous standpoints as these are crucial to disrupting the colonial frameworks that continue to influence the way in which government represent and position ATSI people.

To reveal any problems, weaknesses, contradictions, or controversies in the literature, I reviewed emerging scholarships and theoretical debates addressing the issues of Indigenous governance. This involved a methodological search of google scholar to identify Indigenous research studies published from 1995 to 2017, to locate any relevant material from conference reports, government reports and other significant documents both nationally and internationally. The inclusion criteria were: peer-reviewed research articles from scholarly journals that referenced and spoke authoritatively about governance as a theme and which have utilised the following key words: governance, corporate governance, Indigenous governance, Indigenous ways of knowing, being and doing and decolonisation theory and research. The search terms were used individually and in combination (including and/or). Research articles were evaluated to assess relevance according to the search criteria and government reports were used for reference purposes only. This is consistent with the reflective ways of knowing that underpin this research.

The chapter proceeds in 3 sections. Section 2.1 includes a brief discussion on the distinction between Aboriginal Australians and Torres Strait Islander cultures and the impact that

colonisation has had on ATSI people and their governance practices today. Section 2.1.1 discusses the impact of government policies on ATSI people during the last decade. I discuss the change in the way in which government view and work with ATSI people the impact this has had on the relations between government and ATSI people. Section 2.2 explores the divergent theories of governance. I define and describe the use of key terms: governance, corporate governance and Indigenous governance as they are applied throughout this thesis. The discussions are important as it provides a framework in which to view and understand how Indigenous governance is talked about. This is particularly relevant to the study, as the use of these terms can sometimes obscure rather than clarify issues, as the term, governance, has been loaded with unrealistic expectations and contradictory assumptions (Hunt & Smith, 2008). These experiences are important for understanding the impact that the dominant elite have had on the way in which Indigenous governance is viewed and talked about. Section 2.3 reviews the outcomes of two highly influential Indigenous governance projects, the Harvard Project on American Indian Economic Development and the Australian Indigenous Community Governance project. Section 2.4 seeks to privilege the views and stories of highly influential ATSI people and non-Indigenous advocates. The insights gleaned from Indigenous and non-Indigenous advocates highlight the impact of colonisation on ATSI governance practices and in particular how colonialism upholds Western dominant worldviews. In 2.5 I discuss the models of governance as advocated by Reconciliation Australia. In 2.6 I summarise the tensions and contradictions that exist between Western Ideologies and ATSI worldviews and I highlight the contradictions between theory and the practice of governance. Through this, the chapter will then serve the development of an Indigenous research paradigm for use in this thesis.

In order to understand the discourses of governance, I explore the impact of colonisation on the governance practices of Indigenous people. This helps us to understand how settler colonial ideas continue to be influential even as political circumstances, policies and political discourse change across time.

2.1 IMPACT OF COLONISATION ON ATSI GOVERNANCE PRACTICES

Australian Indigenous cultures are not homogenous in that Indigenous Australia is made up of two distinct cultural groups, Aboriginal and Torres Strait Islanders. Prior to colonisation Indigenous Australians lived in small family or language groups; each group had their own distinct history and culture and their own distinct governance frameworks which included rules and regulations which governed all aspects of their lives. Complex and sophisticated kinship systems

determined the relationship and behavior of each individual within the group. These included rules about how rights and powers were distributed, how things should be done and who would have responsibility for maintaining rituals and enforcing the rules. The laws and rules of governance were handed down through law and ceremony (Berndt & Berndt, 1992; Broome, 1992). Membership within each group was based on birthright, shared language and cultural obligations and responsibilities (Dudgeon et al, 2010). Indigenous Australians were semi-nomadic in that they moved systemically across their traditional lands following the seasonal changes. Boundaries were fixed and validated by the Dreaming creation stories whereby each individual belonged to certain territories within the family group and had spiritual connections and obligations to particular country. Land was not owned; one belonged to the land (Dudgeon et al, 2010, p. 26). Dudgeon et al make the point that being semi-nomadic meant that Aboriginal people were also relatively non-materialistic and greater emphasis was placed around social, religious and spiritual activities and cultural obligations and responsibilities. At the time of colonisation there were approximately 300 000 Aboriginal people co-existing in mainland Australia of which there were 260 distinct language groups and 500 dialects. It is estimated that today, approximately 20 languages remain strong (Commonwealth of Australia, 1998). Of my mother's people, the Waluwarra there are only 2-3 fluent speakers of my mother's language. In more recent times we have learnt parts of Waluwarra language which allows us to name particular animals, plants and medicines and we are trying to relearn our language so it is not lost forever.

Unlike Aboriginal groups that lived within the mainland of Australia, Torres Strait Islanders lived in the Torres Strait between the northernmost east coast of Australia and Papua New Guinea between the Coral Sea and the Arafura Sea. Within the Torres Strait there are approximately 100 islands and the Torres Strait Islanders live permanently in 18 communities on 17 of the 100 islands. In 1870 the Torres Strait population was estimated at about 3800. The main languages of the Torres Strait are identified as Kala Lagaw Ya, Meriam Mir and Torres Strait Kriol (ABS, 2008b). Pre-contact Torres Strait Islanders were not a unified group and until more recently did not think of themselves as one people. Each nation had its own name: Saibailgal (Top Western), Maluilgal (Mid- Western), Kaurareg (Lower Western), Kulkalgal (Central) and Meriam Le (Eastern). Prior to colonisation established communal and village life based on subsistence agriculture, fishing, gardening and trading of food weapons and artefacts existed (Mosby & Robinson, 1998). The Torres Strait Islanders were expert sailors and navigators as well.

Traditional Torres Strait was regulated by senior men and organised through totemic clan membership and was based on kinship and reciprocal obligation (Shnukal, 2001). The Queensland Torres Strait Islanders Act 1939 legally recognized Torres Strait Islanders as a separate people for the first time (Shnukal, 2001). Even though the islands were legally annexed to the Colony of Queensland by 1879, it was not until the legal challenge by Mabo in the High Court that most Islanders realised that, despite their continued occupation they were not the legal owners of their islands. Dudgeon et al (2010) maintains that the historical significance of the High Court in the case of Mabo vs the State of Queensland lay in the recognition, for the first time, of the common law rights and interests of Indigenous people in their lands according to their traditions, law and customs. Shnukal (2001) argues that the Mabo case in effect exposed the legal fiction of *terra nullius* – that Australia did not belong to anyone and therefore could be 'settled'. Moreton-Robinson (2003, 2017) argues that the premise of colonisation that Australia belonged to no one informed the relationship between Indigenous people and the nation state from its very inception and continues to do so.

Although Aboriginal people and Torres Strait Islanders have distinct culture and societies, many of their governance frameworks were irreversibly changed with the arrival of the settler state (Lovell, 2007). As Aboriginal lands became increasingly occupied, Indigenous forms of economics, society and politics were replaced with those of the settler group and institutional and economic structures of the settler colonial state were reinforced, constructed and legitimated by discourses about identity (McMichael, 1984). This resulted in a series of legislation and state policies, supported by a number of institutions whereby every aspect of their private, family and community lives was controlled by government law and regulations. Legislation and state policies served to exclude Indigenous people from participation as citizens through their removal to reserves, missions and cattle stations where their everyday lives were lived under regimes of surveillance and control (Dudgeon et al, 2010). Many people were removed from their traditional countries but carried with them knowledge of those countries while others were not removed. Some reserves and missions were set up on other people's traditional country where the incarcerated traditional owners retained close links and ties to that country. Other Indigenous people were stolen from their families and placed in institutions or adopted by White families (Moreton-Robinson, 2003).

These laws were directed primarily at regulating, managing and controlling Aboriginal people without any consideration of their human rights and equality. Moreton-Robinson (2017) argues

that colonisation produced multiple contexts that shaped the construction of Indigenous subjectivities which were and are positioned within discursive formations of history relative to a particular space, country and time. Dudgeon et al (2010) argue that such legislation reflected the dominant society's perceptions of Aboriginal people and how they ought to be treated. The pauperisation of Aboriginal peoples was sealed by political pragmatism and legislation that allowed for an instrument of ruthless control without any consideration of human rights and equality (Milnes, 2001). Decades of entrenched ideologies, paternalism, massive resource losses and cultural suppression and the forced removal of Aboriginal people from their traditional lands have created an increasingly common historical experience for Aboriginal people today and have had a profound impact on the lives of ATSI people. Dispossession, racial categorisations and representations have created a culture in which Aboriginal people have become dependent on the very people and institutions that have dominated them. Dodson (1996) argues that Aboriginal affairs policies have been dominated by attempts to suppress our differences so much so that our distinct identity has for the last two hundred or so years have been the subject of non-Indigenous attempts to define, characterise and reshape it, so much so that Aboriginal people were defined as 'other' .

This disregard for Aboriginal people and culture appears to be predicated on a fear of difference and fear of what is unknown and strange. These perceptions were underpinned by the notions that Aboriginal people were thought to be primitive and childish figured prominently in the ideology of the 'frontier' (Wolf, 2006). The enactment of laws and special legislation to control and confine ATSI people by forcibly removing ATSI people from their traditional lands and the enforcement of new institutions and rules that reflected the settler state, resulted in total chaos and disorder (Reynolds, 1987; Jorgenson, 2007). Such an approach argues Dodson (1996) reveals an inability to embrace our difference and be enriched by it, so much so, that policy for and about, ATSI people have consistently asserted the dominance of the mainstream discourse over the voices of Indigenous peoples. This period of colonisation profoundly affected the lives of ATSI people and severely limited their capacity to govern themselves and to make their own decisions (Dudgeon, et al., 2010, p.30).

The 1970s were heralded as the beginning of a shift from paternalistic policies of assimilation and integration to an approach that sought to facilitate greater self-determination for ATSI peoples (Limerick, 2013). The government has defined self-determination as 'Aboriginal communities deciding the pace and nature of their future development as significant components within a

diverse Australia (O'Donoghue, 1992, p. 7). The adoption of self-determination by governments as a policy approach to Indigenous affairs was the beginning of a significant shift in the relations between Aboriginal people and the state. Virtually overnight Aboriginal people's status changed from being wards of the state to being 'boss' of their settlements, as self-determination meant in a practical sense that government withdrew from these places (Caulkins & Jordan, 2013). This was seen as a shift from assimilation to self-determination, in which legislative space was created by the Commonwealth for Indigenous populations to incorporate organisations which will enable ATSI people to govern and make decisions in regards to their own matters (Rowse, 2005, p. 213). It also represented a major departure from previous administrative arrangements in that it was premised on the right of a people to decide their political status and future (Roberts, 1994). This period resulted in the creation of an 'Indigenous sector' made up of a variety of community run organisations mostly funded by government to deliver public services (Page, 2015).

The ideals that publicly funded Indigenous organisations may be best placed to address Indigenous problems were well supported through special Indigenous programs which resulted in the establishment of a variety of organisations at the local and regional level and at a national level (Hunt, 2008; Morrissey, 2006; Rowse, 2005). The incorporation of these organisations at the local level reflected the desire of ATSI people to have local level representation (Hunt, 2008; Morrissey, 2006). The establishment of the peak Indigenous organisation, (ATSIC) in 1990 gave instant recognition to the call for ATSI people to be involved in decision-making about government services to communities at the highest levels (Morrissey, 2006, Riley, 2005).

The ATSIC Act 1989 sought to:

ensure maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of government policies that affect them;

promote the development of self-management and self-sufficiency among Aboriginal persons and Torres Strait Islanders;

further the economic, social and cultural development of Aboriginal persons and Torres Strait Islanders; and

ensure co-ordination in the formulation and implementation of policies affecting Aboriginal persons and Torres Strait Islanders by the Commonwealth, State, Territory and Local Governments, without detracting from the responsibilities of State, Territory and Governments to provide services to their Aboriginal and Torres Strait

Islander residents (Muller, 2008, p. 399).

The ATSIC organisational structure which was made of national and regional representatives chosen through a system of elections was seen as a major achievement towards achieving self-determination by both ATSI people and supporters at the National level (Morrissey, 2006; Riley, 2005). ATSIC provided a structure and a vehicle in which Indigenous representatives could affect and influence service delivery and resource allocations to Indigenous communities. Even though ATSIC was viewed as vehicle for Indigenous involvement at the highest level, ATSIC became a source of tension and criticisms (McCausland, 2005, p. 7) and the constant and dramatic policy changes and containment from the State and the Commonwealth in regards to the management of Aboriginal issues has impacted on the way in which government view and talk about ATSI people and the role of government which has subsequently impacted on the relations between ATSI people and the State.

2.1.1 CHANGING OF THE GUARD

The election of the Howard Liberal/National Coalition Government in 1996 saw a significant shift in the Commonwealth Government's approach to Indigenous Affairs. Aboriginal people were no longer viewed as a subset of the population with special programs and the previous principles and the ideologies of self-determination and self-management, national Indigenous representations and advocacy were rejected and replaced by policies of practical reconciliation, mainstreaming, mutual obligation, shared responsibility agreements and a whole of government approach (Taylor, 2006; Altman, 2004). This was characterised by the intention to re-engage the state with its Indigenous peoples, and 'normalise' their relations within their communities and with the wider population (Caulkins & Jordan, 2012). The mainstream implied full engagement in a market economy and communal land ownership (also referred to as homelands) was viewed as a threat to economic development as it did not allow for individuals to create economic opportunities as they were limited to what they could and could not do on Aboriginal land (Hunt et al, 2008). The focus on mainstreaming and normalisation allowed Indigenous communities little choice to be different. One of the first acts undertaken by the Howard government was to dramatically reduce the budget of ATSIC. The Howard Government justified their position by arguing, that after many years of self-determination policies and focus on rights (including land rights), Indigenous social and economic outcomes remained woefully below the levels of other Australians (Altman, 2004). The Howard government argued that 'culture' should not stand in the way of progress and that individual and not community decision making was critical for improving

the social and economic standards of ATSI; that Indigenous Australians needed to accept the tenets of liberal democracy and individual property rights (Brought, 2006a; Dillon, 2005). Public statements by the Howard government served only to problematize Aboriginality (Merlan, 2010). Humpage (2005) argues that this approach avoids the rights-based discourse of indigeneity and legitimises State intervention. The construction of Aboriginality as deficient and subsequently antithetical to mainstream Australia not only reiterates the superiority of liberalism it legitimises its authoritarian practices (Dawson, 2012). The ideology of deficit is formulated through the belief that inequalities do not arise from unjust social conditions, but rather are inherent behavioural deficiencies assumed within disenfranchised individuals and communities (Gorski, 2008a, Gorski, 2008b). Pathologising Indigenous Australians and disenfranchised communities as innately associated with deficit essentially trains the mass consciousness to blame Indigenous Australians for their own social detachment (Gorski, 2010, p. 5). Shields, Bishop, & Mazawi (2005) maintain that the pervading erosive mindset of deficit and its association with identity is a remnant of imperial history.

During the implementation phase of the new arrangements, the discourse of 'failure' and problems' escalated. This resulted in the introduction of a five-point plan which was based on the assertion that 'culture' should not stand in the way of progress and that individual and not community decision making was critical for improving the social and economic standards of ATSI people. Such an approach allows the state to ignore cultural differences, whereby culture is either viewed as invisible or too visible and something to be eliminated (Altman, 2009). A key feature of the government's approach was to move Indigenous people beyond welfare dependency by enabling and changing the relationship between government and Indigenous people and changing the way in which they worked with and provided services to Indigenous people and communities. In brief the plan included:

the implementation of a shared responsibility approach between Government and Indigenous people that recognised that each side had rights and obligations;

shifting the emphasis of policy towards the needs of individuals and families, with a focus on 'empowering individuals as members of families and communities rather than viewing the Indigenous world through the construct of community and considering the functioning of Indigenous organisations to identify whether they are providing services that can demonstrate tangible outcomes';

tackling substance abuse, particularly alcohol, as a major health priority and 'as an absolute necessity in terms of breaking the shackles of family violence, welfare dependency and the like';

pursuing English literacy and numeracy as the most basic foundation to securing the long-term economic self-sufficiency of Indigenous people, and ensuring that mainstream funding caters to Indigenous needs to enable better targeting of Indigenous specific resources (Ruddock, 2002, pp 7-8).

Mal Brough (2006a), the then Minister for Indigenous Affairs, maintained that the strategy for implementing these changes see Aboriginal services and programs in urban areas being taken over by mainstream services and government working with State and Territory governments in remote Aboriginal communities to improve the stands of services being opened to the wider Australian community and the market economy. Brough (2006a) reasoned that some communities identified as 'priority communities' would be the subject of 'intensive intervention' and that land tenure changes would be introduced and 'normal' economic activity and home ownership would be encouraged. The idea was to 'harness the mainstream' to address Indigenous disadvantage (Altman, 2004). The Howard Government maintained that they would no longer work through representative bodies such as ATSIC and ATSIC was consequently abolished. The extensive media coverage of the sexual assault allegations against the Chair of ATSIC and the allegations of misappropriation against the Deputy Chair rather than the policy and program successes of the institution fed the common stereotypes of Aboriginal people as unable to govern with transparency and accountability, this justified the decision to abolish the main Indigenous representative body with little or no opposition or outcry (Behrendt, 2004). This had a significant effect on the collective beliefs of mainstream Australia.

This approach resulted in a number of changes to the Aboriginal Land Rights Act in the Northern Territory and significant changes to the way in which the government engaged with ATSI people. The most significant changes to the arrangements of Indigenous affairs announced in 2004 included:

the abolition of the ATSIC, a body of elected Indigenous representatives that had a role in policy development and service delivery including its network of 35 elected regional councils

the transfer of all Australian Government Indigenous-specific programs and services

to mainstream departments

the establishment of an appointed, non-statutory National Indigenous Council of experts to advise the government on service delivery and on-the-ground coordination through a network of Indigenous Coordination Centres (ICC)

the negotiation of arrangements with the States and Territories to improve coordination between governments

changes to the Indigenous budget, grant management and financial reporting processes

re-alignment of programs to coordinate the operation of mainstream and Indigenous specific services, and

negotiation of agreements with Indigenous people at the local level in the form of shared responsibility agreements (HREOC, 005)

Following the abolition of ATSIC, the State and Territory governments moved quickly to reform their processes so that they aligned with the whole of government approach adopted by the Federal government. In response to these changes, the following key bodies were established by the Federal Government to administer Indigenous Affairs:

The Ministerial Taskforce on Indigenous Affairs - comprised of government ministers who set the direction for the Federal Government's approach to Indigenous affairs;

The Secretaries Group on Indigenous Affairs - comprised of heads of federal government departments and reports to the Ministerial Taskforce;

The National Indigenous Council - a Government appointed Board of Indigenous people to advise Government

The Office of Indigenous Policy Coordination - located in the Department of Immigration, Multiculturalism and Indigenous Affairs - it coordinated federal government activity on Indigenous affairs; and

27 regionally based Indigenous Coordination Centres - set up to engage with Indigenous communities at the local level to coordinate government service delivery to communities (Shergold, 2006).

The HREOC (2006) argues that the new arrangements unintentionally disempowered Indigenous communities as it occurred within a culture of control, whereby ATSI people are treated as problems to be solved, not as partners and active participants in creating a positive live vision for the generations of Indigenous peoples still to come (HREOC, 2006, pp 17-18). By describing Aboriginal people as problems to be solved, the plan reproduced settler colonial representations of Indigenous people as 'failures' and acts as a counterpoint to and affirmation of the superiority of settler society (Wolfe, 2006). Further to this, the new arrangements are punitive in that, Indigenous people are scapegoats for the failures of government service delivery effectively side stepping accountability for the historic and ongoing under- performance of government on Indigenous issues.

The whole of government concept impacted not only on the way in which the government worked with ATSI communities, it impacted significantly on the Indigenous budget which resulted in changes to the way in which Indigenous specific funding was identified and distributed. Unlike previous governments that sought to separate and identify Indigenous specific funding, the Howard government implemented a single line budget for Indigenous programs in line with the ideology of mainstreaming (Arabena, 2005). As a result, Indigenous service delivery was subsumed into mainstream departments and programs with individual differences and special needs ignored. Craig and Porter (2006) maintain that:

this approach to dealing with Indigenous policy reflects the neoliberal idea of community development in which empowerment is conceptualised as participation in local and global markets; institutional capacity building becomes preoccupied with commercialisation; human capital is built through services rather than education; vulnerability is aided by formal legal rights rather than welfare and citizen responsibilities are cast as moral obligations to community and work (p. 251).

The manipulative use of the ideology and the conception of neo-liberal ideas of community development are deeply rooted in pre-existing ideological positions. McMartin (2007) argues that even though 'neoliberalism' advocates for individualism, personal freedom and the free market, in practice, state regulation and control are still required in order to ensure that the conditions are conducive to business and activities such welfare benefits and the manipulation of interest rates by the Reserve Bank of Australia. In the economic sphere, the rhetoric of globalisation provides a new argument in favour of deregulation, free trade and public sector cutbacks and contributes to the decline of the welfare state and shifts the power from the state (Johnson, 2004 p. 26). Such

discursive accounts solidify the supremacy of those ideologies which coalesce into the national political culture, which Jaensch, (1997) describes as the 'collection of ideologies, beliefs and attitudes about the political system and its processes, and relates both to individuals and to the society as a whole' (p. 19).

The notion of mainstreaming, home ownership, opening up communities and reforming land tenures to allow for economic development consumed much of the government's agenda. This has resulted in mainstreaming of Indigenous programs and services, severe cuts to public funding, reduced governmental regulation and ideas related to things such as 'the public good' and the 'community', special needs, education and capacity building initiatives ignored and discarded and unemployment, inequality and poverty have been increasingly blamed on individuals rather than on structural constraints. Where special needs have been ignored this has resulted in ATSI people being viewed as problems and being dependent on government and not being able to manage their own corporations. The approach to Indigenous affairs adopted by the Howard government has failed to understand the fundamental links between Indigenous socio-economic disadvantages and Indigenous rights and it has not benefitted Aboriginal people as intended as there is no evident to support the notion that the Howard government has delivered better outcomes for ATSI than their predecessors (Altman & Hunter, 2003; Ross, 2001; Gunstone, 2006).

Lovell (2012) argues that both colonial and neoliberal politics have contributed to a view of Aboriginal people as dysfunctional and incapable of self-discipline and self-government. This has contributed to a discourse of 'failure' whereby Aboriginal people have been represented as uncivilised and unable to adapt to the demands of a modern political society as they are incapable of functioning in a liberal society (Lovell, 2012). The consequence here is that authoritarian views are preserved, reinforcing reliance on both physical and ideological relationships of dominance and control (Lavia & Moore, 2010). This together with fabricated stereotypes of the 'other' add to and fuel distortions and myths potentiating false, racialised attitudes and beliefs that further fragment community relationships (Lavia & Moore, 2010). This has subsequently impacted on the way in which communities and Indigenous Australians view the role and intent of government.

In 2007 the relationship between government and Indigenous Australians was again called into question when a highly controversial report detailing sexual abuse in the Northern Territory was

released. The response by the Australian Government to intervene in the management of some 60 remote Indigenous communities without notice resulted in the implementation of the Northern Territory Emergency Intervention (NTER). The intervention formally known as the NTER resulted in changes not only to the legislation governing welfare provisions, law enforcement and land tenure in Aboriginal communities within the Northern Territory, the intervention involved the suspension of the Racial Discrimination Act (RDA) (1975). The NTER Bill 2007 provided a legislative framework for:

alcohol restrictions to stem the instances of family violence and sexual abuse of children;

computer audits to detect prohibited pornographic material;

five-year leases to better manage investments to improve living conditions in townships;

land tenure changes to enable town camps to become normal suburbs;

the appointment of government business managers in Aboriginal townships to manage and implement the emergency measures;

the removal of customary laws as a mitigating factor for bail and sentencing conditions; and better management of community stores to deliver healthier and more affordable food to Indigenous families

The suspension of the Racial Discrimination Act (RDA) 1975 and the implementation of legislative frameworks and public statements regarding law and order, child sexual abuse and alcohol abuse served only to allow the government to represent Aboriginal communities as dysfunctional and as 'problems' (Lovell, 2012). Stringer (2007) argues that all of the changes directly targeted Indigenous ways of life and culture, and served either to diminish or eclipse the Indigenous ways of governing, transferring these rights and powers to the government through a systematic bolstering of legislative power to justify State Intervention in the lives of Indigenous Australians.

While the intervention was viewed by many as a breach of the Racial Discrimination Act, it received both bipartisan parliamentary supports. The amendment to the Racial Discrimination Act 1975 and the actions taken by government into areas traditionally managed by the states and territories and were highly criticised by the United Nations and other Indigenous Australians whom

argued that the actions taken by government, undermined important principles and parameters established as part of the legal recognition of Indigenous land rights in Australia and the recognition of self-determination, the right for Indigenous Australians to make decisions for and behalf of themselves. The actions taken by the government to make communities safe was received with mixed reactions and caused a division within the Indigenous and non-Indigenous leadership group, whom all argued from different standpoints. The need to make communities and children safe by some sections of the Indigenous community appears to give the Government some form of legitimacy to continue with the intervention. Indigenous Australians in high profiles, such as Noel Pearson, Marcia Langton and Bess Price, who supported the actions taken by the government at the time, were shunned and their credibility's as people who fought for Indigenous rights and equal opportunities were called into question and their roles as advocates within the Australian context.

The highly emotional and controversial debates that followed impacted dramatically on the views and attitudes of many Indigenous and non-Indigenous Australians. As an Aboriginal woman with a large extended family and cultural connections to a number of remote and rural communities in Queensland and the Northern Territory, I have watched and listened to the conversations in which people have expressed both fear and mistrust towards the government because of the actions taken by them and the impact that the NTER had on their lives. I recall conversations with my extended families and many people in communities who feared that the government was sending in the army to take their children away and to take control of their communities. The fear of having the army come in and take away children was very real in the minds of those living in the targeted communities. Whilst there was fear in those communities in which I had a direct link there, a number of communities expressed their support. Brown (2004) maintains that the support is an indication of how critical the situation had become in those communities rather than being an expression of support for the manner in which the federal government acted.

Misunderstandings of what the government could do and what was possible and what was not was inflamed by media reports and talk amongst Indigenous people themselves. In late 2007, following the national elections, the Coalition government was removed from office and a Labor government came into power. Even though the Emergency Response has subsequently lapsed and has been replaced by the 'Stronger Futures Policy', a number of the measures have been maintained whereby government still maintains a strong presence in communities. The actions taken by the former Prime Minister, John Howard and Minister Mal Brough, to 'stabilise' and

'normalise' Aboriginal people and communities, begs the questions as to whose 'norm' was being used and serves only to reinforce the ideological view that Indigenous Australians are unstable and therefore different to non-Indigenous Australians and reinforces the discourse of 'other' (Walter, 2009). Such difference and 'othering' justified the suspension of the Racial Discrimination Act to allow the NT Intervention (Watson, 2009). The language employed implicitly assumes characteristics of deficit or problems within Aboriginal people (Dawson, 2007). The discourse of Aboriginal culture as a 'problem' for the government can be seen as an attempt to maintain and reinforce the unequal power relations between government and ATSI people. The use of such terms was invoked wherever possible, pounding out the desired message effectively thwarting the possibility of dissenting interpretations. Pathologising Indigenous Australians and disenfranchised communities as innately associated with deficit essentially train the mass consciousness to blame Indigenous Australians for their own social detachment (Gorski, 2010, p. 5). By naturalising the notion of Aboriginal culture as a 'problem', capitalist norms provide fodder for its structural and ideological machinery (Lavia & Moore, 2010).

The discourse of Aboriginal culture as 'problems' or proxies for deeper political, economic and social transformations is encapsulated in the umbrella term of mainstreaming which is mainly concerned with the triangular relationship between the State, market and ATSI people and the contesting notions of self-determination and special needs. The ideological shifts in all these respects not only impact on policy aimed at ATSI people, it also propels parallel changes in other policy areas and justifies and naturalises these shifts. Whilst government, senior academics and policy makers continue to invariably discuss Aboriginal people and Aboriginal problems in terms of 'they', never 'us', ATSI people will continue to be recognised by government as requiring intervention until such time as they have the desire and the capacity to relocate and participate in the mainstream economic life of the community. At the time of the study, there have since been another two elections and the government arrangements have changed once again and some of the policies have continued.

The aim of my discussion was to contextualise the discourse of Aboriginal culture and Aboriginal people as problems and to explore their ideological intertextuality and how these contexts interrelate with each other and are deliberately invoked to fulfil particular ideological functions, to justify and rationalise certain policy moves and in turn reinforce hegemony at the expense of ATSI people. In order to critically analyse the impact that government relations have had on the discourse of governance, which has become a fixture of the political, policy and organisational

landscape within Indigenous affairs, it is important to define and discuss what I mean by the term governance, corporate governance and Indigenous governance.

2.2 THEORIES OF GOVERNANCE

ATSI people face many challenges. These challenges are driven by history, dispossession, colonisation, paternalism, massive resource losses, enforced acculturation and long-term poverty and powerlessness (Jorgensen, 2007; Dodson, 2012; HREOC, 2006). Good governance plays an important role in determining how ATSI people function and respond to such challenges. What this looks like and how it works, is not easily translated into practice, as history, circumstances and contexts influence the desired outcome, this is particularly so, in Indigenous communities where the development agenda is set by government, decision making is short-term, non-strategic and elected leadership serve primarily as a distributor of resources (Jorgensen, 2007).

Governance is about power, jurisdiction, control and choice (Vivian, 2012). Governance is both political and complex in that there are multiple stakeholders, all whom have competing and often conflicting goals and aspirations. Hunt and Smith (2005) maintain that the principles and practices of governance are not culture free, they are the product of cultural values, institutions, laws and norms, behaviours and motivations which have evolved over time shaped by cultural, political, social and economic factors of the country. Unsurprisingly then, the government view of governance differs somewhat to the view of ATSI people as both promote different normative ends. Indigenous concepts and practices of governance are often at variance with those of non-Indigenous people (Smith, 2015). This raises important questions on the presuppositions inherent in the Western discourses and the tension and gaps that exist between theory and practice. Governance is therefore explored in this chapter as a historic and contestable phenomenon building the argument that Western world views dominate the governance agenda in Australia.

The literature suggests that although there are many definitions of governance, it is important to distinguish between governance and government. Governance is an ideal that we should all strive for, as it enables and gives people, groups, communities and organisations the ways and means to achieve the things that matter to them (HREOC, 2006; Plumptre & Graham, 1999). Governance is distinct from government and has come to mean different things to different people depending on the context and desired outcomes (Reconciliation Australia, 2007; Plumptre & Graham, 1999; Hunt & Smith, 2007 and HREOC, 2006; Reilly, 2005). Government refers to official institutions established under the Constitution of the nation and government and consists of a group of

people who rule or run the administration of a country (Reilly, 2006; Kjaer, 2004). Good government implies accountability, transparency, participation, openness and the rule of law (UNDP, 1997). Government is viewed as one of the actors in governance of which there are various views of governance.

Good governance has become synonymous with western democratic, neo-liberal ideas of 'good governance' and is used to describe various normative accounts of how public institutions ought to conduct public affairs and manage public resources (World Bank, 1999). Viewed in this way, it is routinely concerned with issues of management and administration, compliance with regulations, the enforcement of rules, financial accountability, control and technical standards of measurement (Bauman et al, 2015). The Organisation for Economic Cooperation and Development (OECD, 2004) maintain that the governance of corporations is a key element in a country's economic growth and efficiency and for stable financial markets and systems. These normative accounts are thought to be conducive to economic ends and are often seen as a necessary precursor to addressing entrenched social and economic disadvantage in the developed world (Hunt & Smith, 2009; World Bank, 1999).

The literature suggests that governance is much about people, power and authority, relationships and values, processes of representation, decision making and accountability as it is about formal structures, processes, legitimacy and institutional capacity and management and corporate technicalities (Hunt & Smith, 2006; HREOC, 2006; Plumptre & Graham, 1999; Ellerman, 2002). As such, governance can be applied to different contexts which may include both formal and informal settings and can involve a much wider range of stakeholders, their relationships and networks, which include individuals, government, the private sector and non-government organisations (Hunt & Smith, 2009; AIATSIS, 2006; Martin, 2003). The HREOC (2006) maintain that good governance is fair, open, transparent, accountable, equitable and responsive to people's needs. It enables and gives people, groups, communities and organisations the ways and means to achieve the things that matter to them. Even though there is much to say about what good governance is, there is little to say about what this might involve and how it could be implemented.

The OECD (2004) makes the point that corporate governance is part of a broader economic, political and social context that corporations operate within. Governance is a highly contextual concept and the processes and practices differ significantly depending on the environment in which they are applied. Within the Australian context, government tends to narrowly define

'governance' in terms of corporate governance principles (Vivian, 2012). Governance within the public sector covers:

the set of responsibilities and practices, policies and procedures, exercised by an agency's executive, to provide strategic direction, ensure objectives are achieved, manage risks and use resources responsibly and with accountability (ANAO, 2006, p. 1).

It is about how agencies use governance arrangements to meet the requirements of the law, regulations, published standards, probity, accountability and openness (ANAO, 2003). In this context, governance is typically about the way public servants take decisions and implement policies on a daily basis. Hunt & Smith (2007) argues that while corporate governance or management and business administration are undoubtedly important to effectively producing outcomes, it is only one facet of the 'whole of community approach to the broader processes of making and implementing decisions. Other factors involved include skills, capabilities, material resources, legislative provisions and the complexity of their operating environment (Moran, Porter & Curth-Bibb, 2014). Governance within the non-government sector needs to take into consideration the history and the aims of the stakeholder groups.

Governance in this study refers to the act of governing or ruling. It is not an end in itself, but rather a process and a set of practices that enable organisations and groups to realise their goals. It exists anytime a group of people come together to accomplish an end (<http://iog.ca/defining-governance/>). It includes the rules, structure, practices, values and relationships that people put in place to collectively organise themselves and guide how they work together to pursue a future direction and get things done that matter to them (Smith, 2015, p. 10). It has been described as 'the conduct of conduct' and ranges from 'governing the self' to 'governing others' (Foucault, 1982). As such, governance can be applied to different contexts which may include both formal and informal settings and can involve a much wider range of stakeholders, their relationships and networks, which include individuals, government, the private sector and non-government organisations (Reilly, 2006). Bauman, Smith, Quiggin, Keller and Drieburg (2015) make the point that Indigenous governance and the governance of governments are intertwined and while the governance of government has received less scrutiny, it has had a critical impact on indigenous outcomes.

What emerges from this construction of governance is that democratic western views of governance

prevail in spite of the growing recognition of Indigenous governance theory and practice. Implicit in this view is the suggestion that governance has developed from a primate form to the more advanced form of governance in which western economies have advanced. Western Eurocentric views as such reinforce and uphold the notions that the West knows best. The view that the West is the best and that are responsible for finding solutions for Indigenous Australians is reflected in State and Commonwealth policy and legislation, such as the NT Intervention and Closing the Gap, which have recently been introduced and supported by both sides of government. The legislative changes and policy directives have impacted on the way in which ATSI people both govern and manage their way of life and how they interact with government. New and imposed governance models and frames of references continue to conflict with and overburden many Indigenous groups. The result is that the colonised are reduced to a state of silence. The discourse of Aboriginal failure ascribed to the dysfunctional nature of Aboriginal culture and the assumed superiority of settler cultures continues to influence the relations between government and Indigenous Australians. These discussions are particularly important for this thesis as it provides a framework in which to view and understand how the dominant elite view and talk about governance and Indigenous peoples

Having established that governance is experienced and interpreted in many different ways, I now turn to a discussion on corporate governance and the tensions that arise when dealing with corporate governance within ATSI corporations and communities. What follows is a definition of corporate governance within the Australian context and its impact on the way in which government view and talk about corporate governance and the responsibilities and rules around corporate governance.

2.2.1 CORPORATE GOVERNANCE

What are the main characteristics of corporate governance and how is it defined? The ORAC defines corporate governance as the rules about how people lead and run their organisations and is mainly the responsibility of the board as a group (ORAC, 2006/07). It is about how the governing board performs its duties with the support of management and staff, in line with member's wishes, the Constitution and the law and ideally in partnership with stakeholders. The focus is primarily on the fiduciary responsibilities of the representative board and those whom the organisation serves. The Indigenous Community Governance Project defines corporate governance as a sub-set or dimension of community governance and refers to the systems by

which an organisation or corporation is managed and run (Reconciliation Australia, 2006, p. 5). The Australian Stock Exchange (2014) describes 'corporate governance' as the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled within corporations. It encompasses the mechanisms by which companies and those in control are held to account (p. 3). Good corporate governance structures encourage corporations to create value and provide accountability and control systems commensurate with the risks involved (Australian Stock Exchange, 2014). A combination of statute, common law, self-regulation through codes of practice, and extensive practitioner literature on board structure and processes provide the framework for boards of directors (Pitkin, 2012, p. 20). All three definitions of corporate governance reflect the Western- dominant ideology of corporate governance that tends to focus on fiduciary processes and procedures.

Within the Australian context, government tends to narrowly define 'governance' in terms of corporate governance principles. Hunt and Smith (2009) argue that while corporate governance or management and business administration are undoubtedly important to effectively producing outcomes, it is only one facet of the 'whole of community approach to the broader processes of making and implementing decisions. Corporate governance then is not only about considering the rules of governance and decision making, it is also about being mindful of the external and internal circumstances and relationships in which these corporations operate, all of which may influence and shape the particular governance practices adopted by ATSI groups and communities. This includes having knowledge of making decisions based on their understanding of State and Federal Government policy shifts, growing demand for direct consultation, dealing with duplication across agencies and managing increased reporting requirements that are constantly changing.

While Indigenous people share many cultural traditions and behaviours in common, ATSI people today are reimagining Indigenous governance and are in the process of experimenting and developing legitimate and effective governing institutions, that are relational and that seek to retain culturally-based aspects, at the same time establish organisational structures that reflect the aspirations and the goals of the board and external parties such as government. For communities and organisations to practice good governance they must first adopt a model of governance which seeks to reflect not only their particular group or ideologies but also reflects the increasingly complex, uncertain and rapidly changing environments due to globalisation, technological innovation and the emergence of new knowledge.

Having discussed the definition of corporate governance and the tensions that arise when dealing with corporate governance within ATSI corporations and communities, I now seek to challenge the western-dominant world views of corporate governance by presenting an alternative perspective of Indigenous governance. The next section describes the Indigenous models of governance currently being floated as culturally appropriate models for Indigenous governance.

2.2.2 INDIGENOUS GOVERNANCE

Prior to colonisation, Indigenous people all over the world practiced and followed the laws and rules handed down from generation to generation. These laws and rules describe a system of governance made up of a system of cultural geographies ('country'), culture-based laws, traditions, rules, values, processes and structures that has been effective for tens of thousands of years, and which nations, clans and families continue to adapt and use to collectively organise themselves to achieve the things that are important to them (Gooda, 2012; Australian Indigenous Governance Institute; Reconciliation Australia, 2006; Jorgensen, 2007). These systems of laws and rules were not necessarily written down; they often existed in common law and were set out in the teachings of elders, parents, law men and law women or were simply embedded in daily life (Jorgensen, 2007; Reconciliation Australia, 2006). These laws set up and influence the way in which Indigenous groups organised themselves, shared power and responsibilities and made decisions about what kind of society they want for their future and how they might govern themselves. These systems of governance served their purposes (Reconciliation Australia, 2006; O'Reilly, 2005). The conditions facing ATSI peoples and the governing tools they have on hand to address those conditions have changed due to the impact of colonisation. New and foreign laws that reflected outsiders' needs and ideas about how things should be done was forced upon Indigenous people, this limited people's freedom to continue the practices of the old ways and limited their freedom to design their own governing institutions and their power to make decisions for themselves (Jorgenson, 2007). In order to deal with these challenges, many Indigenous groups are utilising western democratic tools to support effective governance and customising them to accord with their preferred Indigenous cultural styles of interaction, hence, developing innovative local approaches that are effectively governing and producing long-term positive outcomes. Today, ATSI people have many forms of governance based on their diverse histories, environments and cultures.

Indigenous governance describes not only about how an organisation sets up its formal

structures and processes and how it manages the day to day operations, it is much about how Indigenous people observe and practice their own laws and how Indigenous people negotiate governance solutions that reflect Indigenous values, ways of knowing and doing whilst maintaining accountability and transparency under the central legal system (ICGP, 2006, p. 2; Russell, 2001; ICGP, 2008; Riley, 2009). Unsurprisingly then, systems of Indigenous governance – both formal and informal - remain opaque to the non-Indigenous eye (Vivian, 2012). So much so, that outsiders, often wrongly perceive ATSI organisations as governing institutions in themselves, failing to appreciate that ATSI organisations are deeply embedded within western colonial frameworks.

Smith (2015) argues that Aboriginal governance is not the same as ‘organisational governance’ and the practice of Aboriginal governance cannot be separated from its traditions and culture (p. 14). The Australian Indigenous Governance Institute maintain that governance can be seen at work every day in both the formal operations of an organisation and in the way people own and care for their country, arrange a ceremony, manage and share their resources and pass on knowledge. It can also be seen at work in extended families; in the way community events are arranged and coordinated and the way which ATSI men and women work within their own communities and as governing members on various committees and groups. The Australian Indigenous Governance Institute maintains that the role that ATSI social and philosophical systems, cultural values, traditions, rules and beliefs makes it Indigenous governance.

Today, there are many forms of governance and it is experienced and interpreted in many different ways depending on whose lens you are looking through. While it is possible to distinguish between organisational, corporate and Indigenous governance they rarely operated independently from each other (Bauman et al, 2015). Reconciliation Australia defines Indigenous governance, as the role that ATSI social and philosophical systems, cultural values, traditions, rules and beliefs play in the governance of how things are done, the ways people organise themselves, distribute power and make decisions either individually or collectively about how they relate to each other and the rules for how things should be done. Through this lens, Indigenous governance then envelops all things and is dynamic, adaptable and enduring (Russell, 2001).

In this section, I have sought to define and describe the key terms, governance, corporate governance and Indigenous governance as they are applied throughout this thesis. The discussions are important as it provides a framework in which to view and understand how

Indigenous governance is talked about. This is particularly relevant to the study as the use of these terms can sometimes obscure rather than clarify issues, as the term, governance, has been loaded with unrealistic expectations and contradictory assumptions (Hunt & Smith, 2008). In an attempt to privilege and to restore the place of Indigenous knowledge as valued systems, Indigenous groups both nationally and internationally have sought to undertake research studies that reflect Indigenous ways of knowing, being and doing, where Indigenous issues and perspectives remain at the centre and are not lost in the colonisation rhetoric. Studies such as the highly influential Harvard Project on American Indian Economic Development ('Harvard Project') seek to affect a nation- building approach to governance and have influenced the discourse of governance.

2.3 THE HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT

The research projects undertaken by the Harvard Project and its sister institute, the Native Nations Institute for Leadership, Management and Policy (NNI) maintain that Indigenous self-determination and the freedom it generates is necessary to break away from the seemingly intractable pattern of poverty evident in many native nations. The study sought to investigate the conditions under which some Indian nations achieved economic success while others continued to struggle (<http://www.hks.harvard.edu/programs/hpaied>). The research which focused on economic development found that stable, fair and effective governance institutions, including the separation of politics from business natural, human and financial resources, were the key to successful economic development. The research also found that success depended on the correlation between corporate structures and cultural norms – “cultural match” – which underscores the legitimacy of the governing authority among its constituents. The study concluded that in order to overcome the dramatic loss of control over their own power due to colonisation, the following key determinants are important for self- determination and nation- building; practical sovereignty, capable governing institutions, cultural match, strategic thinking and leadership must be in place (Cornell, 2002). The five principles are not independent of each other and need to function in unison to achieve maximum effectiveness.

The nation building approach which focuses on asserting Indigenous rights and building the foundational, institutional capacity to exercise these rights have been defined by Cornell and Kalt (2002; 2007) as:

Practical sovereignty is decision-making power in the hands of Native nations. It is about native nations having the power to make major decisions about development strategy, the organisation of internal affairs and other related matters that reflect tribal interests, perceptions and cultures. Tribes that practice self-rule and make their own decisions are practicing sovereignty.

Capable governing institutions is having effective governing institutions that are stable and that have established fair and independent mechanisms that back up decision-making by separating politics from day-to-day business and program management and managing the day to day affairs effectively to create an environment that is favourable to sustained development.

Cultural match is about ensuring that the decision-making processes within organisations reflect the values and beliefs of its members and not colonial western institutions, at the same time meeting legislative requirements of reporting. Cornell and Kalt (2003) maintain that this does not mean that only traditional structures can be used, rather, that in new circumstances new forms can be developed.

Strategic thinking involves a shift away from crisis management and opportunistic quick-fix responses to development dilemmas and toward long-term decision-making that incorporates community priorities, concerns, circumstances, and assets.

Leadership requires leaders who can operate at the interface of the two worlds and who can introduce new knowledge and experiences, challenge assumptions, and propose changes and convince people that things can be different and inspire them to take action.

Cornell and Kalt (2007) cited in Jorgenson argue that nation building in this sense focuses on asserting Indigenous rights to govern themselves and building the foundational and institutional capacity to exercise those rights effectively to provide a healthy environment for sustained economic development. They argue that where these key determinants are in place other assets such as education, natural resources, access to capital and location can be successfully leveraged. They make the point that this does not, however, guarantee success, as Indigenous societies are so diverse. They further argue that where the cultural match is high, economic development tends to be more successful. Where cultural match is low, governing institutions consequently are less effective and economic development falters (Cornell & Kalt, 1992, 1995, 2000). Despite

the fact that the key determinants for successful governance within Native American lands have been widely accepted by government and Indian nations themselves, the challenges facing tribal leaders and policymakers remain immense as not all Indian nations have been successful in developing and maintaining sound corporate governance practices.

The principles of good governance as advocated by Professors Stephen Cornell, Joseph Kalt, Manley Begay and Neil Sterrit have in turn subsequently shaped the discourses around Indigenous governance and have influenced the governance discussions and debates amongst many Indigenous nations, such as Canada, New Zealand and Australia embracing its work. ORAC themselves embrace the principles of good governance and make reference to the Harvard Project in their own assessment of what works and what does not work. Even though the Harvard Project has been positively received within the Australian context a number of criticisms around the theoretical framework and the research methodologies have recently emerged. What follows is an account of these criticisms.

2.3.1 EMERGING CRITICISMS OF THE HARVARD PROJECT

In the last decade, in particular, a number of criticisms around the legitimacy of the key principles as advocated by Cornell and Kalt have emerged. Mowbray (2005) and Sullivan (2007) have been the most vocal critics of the Harvard Project. Both are of the view that the key determinants for economic success as identified in the Harvard Project as being important for the sustainable economic development on Indigenous lands is not new knowledge or specific to Indigenous groups as advocated, but are in fact key principles of sound corporate governance and standard business management practices. Sullivan (2007) views the Harvard Project's prescriptions, namely, as problems rather than solutions and questions whether they are reconcilable with Aboriginal political life.

Mowbray (2005) argues that the prominence of Harvard's findings relates more to their presentation and staging rather than their originality. Sullivan (2007) confers by adding that the claims gain momentum with repetition and are unsupported in that the studies are not based on empirical data as implied but is based on references to two sources one of which is an academic journal article and unpublished manuscripts and published papers. Sullivan (2007) and Mowbray (2005) raise similar concerns in regards to the approach taken and the trustworthiness of the research project and subsequently question how each of the key principles were arrived at. Both argue that the link between the data is not demonstrated and this makes it difficult to

interrogate or cross-examine. Mowbray (2005) makes the point that the data is subjective, that there are limited sample sizes and there are gaps in the data. Further to this, the Harvard project does not control or test for other potentially important variables. This brings into question the validity of the research project and its applicability to other Indigenous groups.

Sullivan (2007) makes the point that the borrowing and the use of the term “cultural match” within the Australian and Canadian context has led to some misunderstanding amongst Indigenous groups. According to Sullivan (2007), the term ‘cultural match’ and its implications has been widely understood in Canada and Australia to mean that development processes should or need to follow culture. This is the interpretation applied by a number of different Australian development agencies and community development workers involved in facilitating community governance organisations (Sullivan, 2007). Dodson (2003) argues that this, however, appears to be a misreading of the Harvard study as the term is not concerned about importing romanticised views of traditional kinship structures, the role of elders or systems of family sharing into modern organisations and then expecting them to deal with economic development decisions and business management (Dodson cited in Sullivan 2007). Sullivan (2007) argues that purely traditional matters cannot be built into the kinds of governance structures that the Harvard Project promotes because traditional practices are not compatible with the principles of good governance practices and in some cases may be detrimental to economic development. He argues that if they were there would be no need to identify and to implement effective governance practices.

Sullivan (2007) proposes that the term ‘cultural match’ as interpreted in Australia can lead to both bad governance and an inherently oppressive reductive codification of a complex culture (p. 10). Sullivan (2007) argues strongly that effective management practices and standards must be required of organisations; there can be no excuses for ineffective governance practices. Sullivan (2007) concludes by stating that, to expect an organisation to not comply with the standards of effective management practice because of cultural reasons sets the organisation up for failure and to accept less is oppressive. To do so is an ill-considered act of modernisation that potentially does violence to both continuing cultural practices and principles of good governance (Sullivan, 2007).

Sullivan (2007) and Mowbray (2005) maintain that the three key principles of sovereignty matters, culture matters and institutions matter, as identified by the Harvard Project are not

necessarily applicable to or relevant to the Australian and Canadian context and cannot be easily implemented as suggested, as there are a number of important differences in the legal and political history of Indigenous peoples within the two countries. In addition to this, the Harvard study does not take into consideration some of the more complex issues that arise with respect to contemporary First Nation Cultures which include significant differences in geography and population size and a diverse system of social organisations. Differences that may not necessarily be easily reconciled with Western and Western Economic notions of development and leadership models which focus on the individual.

Sullivan (2007) argues there is a major difference between the American Indian experience and the Indigenous Australian experience in terms of ownership of traditional lands this brings into question the applicability of the Harvard Project within the Indigenous Australian context. He argues that there is little or no opportunity to create economic opportunities on the land granted to Indigenous people as the lands are often located in very remote areas which are not easily accessible or is located in areas where the land is not being used by non-Indigenous interests, which leads to high levels of involvement by the State. The Harvard Project assumes that where there is low risk there will be greater involvement of the State. Sullivan (2007) maintains that this is not the case in the Australian context, as good governance is not rewarded and poor governance is, as the government will not put its resources into groups that are well-organised instead injecting into projects and communities in places where there is a glaring need to improve on social dysfunction.

Although there are criticisms of the Harvard Project, these do not distract from the value of work and its influence within the area of Indigenous governance in Australia. For example, ATSI groups such as the Ngarrindjeri nation are finding innovative ways to negotiate authoritatively the complex sets of interests and political pressures that have dominated ATSI people since colonisation and have begun rebuilding their political identities and governance systems (Rigney, Bignall, & Hemming, 2015). Rather than focusing solely on an economic development agenda, ATSI people, have developed an alternative model of Indigenous development which focuses on a political agenda of Indigenous self-government and sovereignty which recognises and privileges Indigenous ways of knowing, doing and being. This has provided Indigenous people with opportunities to influence and make decisions on matters affecting their Country and community (Rigney, et al, 2015). This approach reflects the nation building approached adopted by many other Indigenous peoples in other parts of the colonised world. In doing so ATSI people have

created a space in which to challenge and negotiate a space in which to challenge the dominant Western state and other non-Indigenous organisations. Mick Gooda, the Aboriginal and Torres Strait Islander Social Justice Commissioner (2014) make the point that:

The concept of Aboriginal and Torres Strait Islander Nations is important to the identity, survival and self-determination of our peoples. 'Nation building' – that is, enhancing Aboriginal and Torres Strait Islander peoples' capacities for self-governance and self-determined economic development – is fundamental to this process. [W]here local Aboriginal and Torres Strait Islander peoples, Nations, communities, authorities and organisations have power and control over decision making and resources, real change is achieved in a more sustainable way (SJNTR, 2014, p. 112).

This is evident in the number of research projects that have been undertaken within the Australian context. One of the most prominent research projects that have emerged during the last decade is the Australian national project into Indigenous Community Governance Project (ICGP). What follows is a detailed account of the Australian Indigenous Community Governance Project.

2.3.2 THE INDIGENOUS COMMUNITY GOVERNANCE PROJECT (ICGP)

The Indigenous Community Governance Project (ICGP) which commenced in 2004 and ceased in 2008 hypothesised, that good governance is a key ingredient to successful socio-economic development and is essential for effective self-determination in Indigenous communities resonates with the Harvard Project. Similar to the Harvard Project, the ICGP sought to understand the effectiveness of different forms of governance and their consequences for Indigenous policy, service delivery, self-determination and socioeconomic development (Smith, 2005). The ICG project which was undertaken by the Centre for Aboriginal Economic Policy Research (CAEPR) in partnership with the Australian National University and Reconciliation Australia was financially supported by the Australian Research Council (ARC), the Western Australian government, the Northern Territory government and the Australian government. Professors Stephen Cornell, Joseph Kalt, Manley Begay and Neil Sterrit of the Harvard Project, provided guidance and support in relation to the implementation and the assessment of the research project (Hunt & Smith, 2007; Reconciliation Australia, 2006).

The ICGP utilised a number of research tools and methods and involved 11 different communities

in 4 different states, which included Queensland, Northern Territory, New South Wales and Western Australia. The participating communities were either located in discreet remote communities, or where identified as outstations and pastoral communities, residentially dispersed communities, island communities and urban communities in both rural and metropolitan settings (Reconciliation Australia, 2006). In arriving at their conclusion, the following key messages were identified:

Message one makes the point that relationships and representation are a key factor in achieving sustainable outcomes and that governance and decision-making in Indigenous community governance is shaped by multiple historical, cultural and political relationships.

Message two posits that “no one size fits all”, but not all sizes are equal. In essence, there is no single model of governance suitable for all community governance. The authors make the point that legislative; policy and funding frameworks should all for quite diverse governance arrangements which take account of local complexities.

Message three maintains that cultural match is seen to be relevant and central to the legitimacy of the organisation. Further to this culturally legitimate representation and leadership will not come through externally imposed solutions (p. 2).

Message four recognises that the cultural geography of regions can form the basis for governance. Even, so, understanding the local content of Indigenous subsidiarity, representation and relational autonomy associated with these cultural geographies could usefully inform more enabling government policy implementation and community development practices (p. 3).

Message five argues that institutions of governance matter, and that by building the institutions of an organisation that create strong internal ‘governance culture’, it builds a strong foundation for sustained good governance (p. 3).

Message six instils the importance of leadership and succession, as the role of leaders is a foundation stone for community governance and is critical to the development of a strong governance culture within the organisation and the community (p.4).

Message seven reaffirms the notion, that in order to sustain socio-economic development, governance matters. The study reveals that economic development is

best achieved when effective Indigenous and non-Indigenous governance capacity co-exists. In order to achieve socioeconomic development, strong visionary leadership; strong culturally based institutions of governance; sound, stable management; strategic networks (both public and private); access to relevant training; and hard-headed strategic planning is important (p. 4).

Message eight makes the point that, the governance environment can either enable or disable and that the governance of government is just as important, as it can enable or disable effective Indigenous community. There should be a more co-ordinated approach in terms of funding objectives and outcomes (p. 5).

Message nine argues that capacity and the long-term partnering is important for building governance capacity (p. 6).

Message ten relates to Government and Indigenous people having different criteria for evaluating governance effectiveness. Evaluation then should focus on: the role of government, objectives and priorities, relationships between partners, delivery processes, and adequacy of resources and funding, community development and governance outcomes and community member's views, participation and ownership (p. 6).

Evidence from both the Harvard Project and the Australian ICGP similarly identifies the centrality of Indigenous culture and knowledge and thus give recognition to and contribute to the unique and authentic position of Indigenous people and groups. As ATSI peoples become effective governors of their own communities they change the prevailing picture of Indigenous people by challenging the frameworks imposed upon them, by effectively defending the rights on which their own success depends. ATSI peoples today are working to rebuild and strengthen their contemporary governance arrangements so that the governance solutions reflect ATSI cultural norms, values and traditions at the same time ensuring that the legislative requirements and the effectiveness of their corporate governance requirements are being met. Reclaiming Indigenous ways of knowing, being and doing is vital to Indigenous people's wellbeing. Both highly respected projects highlight and endorse the nation-building approach which advocates for and promotes legitimacy, cultural match, respectful representations of Indigenous traditions, culture and knowledge, strong internal governance, effective decision-making processes as opposed to reliance and acceptance of Western liberal democratic approaches that reflect standard

approaches to governance (Jorgensen, 2007). The inclusion of Indigenous voices is crucial to challenging and changing the colonial frameworks that continue to influence and shape the way in which ATSI people are constructed and positioned.

As the policy frameworks shift towards ATSI decision making power and responsibility, a number of Indigenous corporate governance models that reflect both the diverse governance arrangements operating within ATSI communities and groups and ATSI ways of knowing, being and doing have emerged.

2.3.3 INDIGENOUS CORPORATE GOVERNANCE MODELS

Indigenous people are engaged in the process of creating and developing legitimate and effective governing institutions with many corporations adopting various aspects of the different governance models to blend in with the aspirations and goals of the board. In their work with Aboriginal groups and communities Reconciliation Australia (2005) have identified four models of governance which could be argued reflect Indigenous ways of knowing, being and doing. These include:

The family model which is set up like a big family with service/business arms growing out of a mother organisation. Membership of the board is based on kin relationships and extended family ties.

The hub and spokes model which is set up like a bicycle wheel which has a central hub and numerous spokes coming from it. In this model, people live in outlying smaller communities that are likened to a central hub that is made up of representatives from different cultures. The hub is responsible for delivering services to the outlying communities (or spokes).

The equal representation model which is based on equal representation of land ownership, language, clan or family groups using traditional decision-making processes and criteria for leadership; and

The combination model which uses a combination of culturally based and western governance institutions. Structures are linked from the bottom up through local level community boards and service centres – into administrative, service delivery and financial support (Reconciliation Australia, 2005 – 2011).

The Indigenous models of governance differ to the more traditional and policy governance models that have been popularised and have dominated the governance frameworks in that, the Indigenous models of governance are derived from a cultural base that seeks to protect cultural values and relationships at the same time reflect the formal structures and requirements of government legislation with the intent of creating legitimacy within and amongst Indigenous Australian groups and communities. Aboriginal governance operates within a wider 'governance environment' in that there is huge diversity between and within Indigenous communities (Smith, 2015). What has worked in one setting has not necessarily worked in another, as each community is characterised by complex layers of social relationships, extended families, networks of leaders, organisational relationships and political networks. Smith (2015) maintains that differences in cultures, location, geographies, population scale, objectives and so on demand different structural solutions. The more diverse the community, the more diverse the governance arrangements will be, as different structures and processes will suit different groups. The inclusion of Indigenous models of governance within the Australian Indigenous context is another means of challenging the colonial frameworks that continue to influence and shape the relationships between the colonial state and ATSI people.

In more recent years the position of Indigenous Australians has changed greatly and Indigenous Australians are intervening and taking greater control over the way in which they are represented and positioned by theorising Aboriginal experiences and making visible the challenges that frame and privileges the colonisers. By taking control of the governance agenda, and advocating for a system that recognises and supports ATSI knowledge and culture as being valid and essential ATSI people and institutions have played a major role in shaping the direction of Indigenous politics and nation building and in doing so have sought to challenge the public discourse of failure and dysfunction by sharing and telling their governance stories.

2.4 INDIGENOUS DISCOURSES

Ross (2014) maintains that in spite of the negative and constant media stories of failure and defeat, many Aboriginal people and their organisations are doing great work and exercising strong governance in all its forms. This includes the management of Aboriginal organisations or enterprises, to the ongoing exercise of traditional law and culture, the assertion of legal land and native title rights and the hard job of making wise decisions about resources and money. Ross (2014) makes the point that the unprecedented level of change during the last

decade have been based on the view that Aboriginal people and their organisations have failed, are corrupt or worse. This has impacted dramatically on ATSI peoples moral and has caused uncertainty amongst Aboriginal groups and communities. Ross (2014) argues that it is important for Aboriginal people to draw upon their own law and culture, their relationships and values and skills and resources to shape their own future and to control the things that are important to them and to achieve the outcomes they want. It is important to focus on what they want and how they determine their own futures and not government priorities. Ross (2014) maintains that power and responsibility are inextricably linked; he argues that you can't have one without the other. Ross (2014) further argues that in order to exercise power you need to accept the responsibilities to govern, to work to make tough decisions and to increase your own skills to implement those decisions. In concluding Ross (2014) makes the statement that; neither the political nor the legal system will give Aboriginal self-determination. Self-determination must be created by Aboriginal people and fought for and implemented by Aboriginal people.

A research report commissioned by the newly formed Aboriginal Peak Organisation of the Northern Territory (APONT) in 2015, suggests that even though externally driven conditions and changing government policy and funding together with a poor implementation capacity of government departments have resulted in significant governance crisis in some Aboriginal communities; the practice of Aboriginal governance cannot be separated from its traditions and culture. APONT (2015) maintain that: 'Aboriginal' governance is not the same thing as 'organisational' governance (Bauman, Smith, Quiggin, Keller, & Wiseman, 2015, p. 14). Aboriginal governance is an ancient jurisdiction made of shared cultural principles of governance that inform cultural geographies ('country'), systems of law, traditions, rules, values and beliefs, structures, relationships and networks. Organisational governance is the exercise of power, authority and the steering on an organisation by the people elected or selected as the people with the right, responsibility and ability to govern on their behalf. A misalignment or lack of 'fit' between the organisational governance arrangements (the structure, processes, rules) and the local cultural system may lead to a downward spiral of the organisation and can accumulate into a governance crisis (Bauman et al, 2015). A number of factors such as population; age structure; geographic remoteness; socioeconomic; education; health and access to IT have exacerbated these challenges. Today Aboriginal people continue to adapt and use their governance values and relations to collectively organisation themselves and organisation ceremony and 'sorry business (funerals) and sporting events, festivals and service delivery of organisations. APONT

(2015) maintain that not all governance challenges are of Aboriginal peoples own making and therefore are not under their direct control to change. In order to overcome the governance crisis in the Northern Territory, ATSI organisations will need to build and sustain effective organisations that are strategically placed to respond to different challenges whether these are internally or externally generated (Smith, 2015).

A collaborative report 'Building Aboriginal and Torres Strait Islander Governance: Report of a Survey and Forum to Map Current and Future Research and Practical Resources needs that was commissioned by the Australian Institute of Aboriginal Studies (2015) and the Australian Indigenous Governance Institute found many Indigenous groups view governance in terms of nation building and self-determination. Further to this, Indigenous governance takes place in a complex intercultural, socioeconomic and bureaucratic environment in which Indigenous organisations are embedded at various scales (p. xiii). This can include a wide range of formal and informal Indigenous and non-Indigenous mechanisms, structures and engagement processes, such as traditional laws and customs, traditions and practices and legislative, policy and jurisdictional frameworks. Bauman, et al (2015) maintains that there is no end point goal of 'perfect' governance; rather, governance is adaptive according to the context and circumstances. The report noted, that there has been a shift in communities from imposed governance to embracing it and shaping and driving and owning their own processes. When Aboriginal people make their own informed decisions they come up with extremely creative customised solutions for their governance that suit their local conditions and priorities (Smith, 2015, p. 155).

The Australian HREOC (2006) maintains that good governance is an important contributing factor in generating sustained economic development and social outcomes in Indigenous communities in Australia and that good policy development is paramount to supporting good governance as the compliance mentality that currently permeates Indigenous policy making processes is an increasingly punitive framework. Governance building should be at the forefront of any proposed intervention and made an integral part of every policy. HREOC (2006) maintain that there is a clear need to work with Indigenous communities and that greater and more effective engagement with stakeholders is required. It is important that Indigenous people are involved at the earliest stage to ensure that: indigenous cultural differences are respected and accommodated; appropriate Indigenous peoples are involved; sufficient time is allocated to developing community support for the implementation process and Indigenous peoples feel a sense of ownership of both the process and the outcome. Simultaneously, the reform of

governments' own governance dysfunction and bureaucratic capacity in Indigenous Affairs has to be a fundamental component of any solution (Reconciliation Australia, 2007). Such a change in thought requires a major paradigm shift. Governance is not a one-sided process that focuses entirely on the needs of Indigenous communities it is more a comment on the Australian government's management of Aboriginal communities and Aboriginal people than it is about the culture of dysfunction. Put simply, the government needs to also develop their own governance capacity to deliver services and programs that reflect the diverse needs of ATSI people and communities (Reconciliation Australia, 2007). Without these two parallel strategies, it is likely that the current 'decisive action' will exacerbate problems not alleviate them (Reconciliation Australia, 2007). How we view and talk about governance differs according to whose lens you are looking through.

The review of the literature on governing (governance, corporate governance) has revealed that the imposition of 'western' ideals of governance defined by the state continues to exert considerable influence on the conception and practice of governance and serves to reinforce the power of the state, by the state (Muller, 2008). These ideals are seen as 'best practice' governance as they lie solely within the dominant Western cultural framework and subsequently set the standards for governance practices required by the government. What is missing in this western approach to corporate governance is the recognition of ATSI governance practices and the impact that colonisation has had on the way in which ATSI people govern their families, their communities and their organisations.

Indigenous governance is both complex and diverse in that the effects of historical policies continue to reverberate through Aboriginal society and families today in unresolved trauma (Dodson, 20120). Engaging successfully with Indigenous communities requires an appreciation of the history, cultures and diversity of Indigenous communities (Hunt, 2013). Marika and colleagues (2009) argue that the state needs to take more responsibility for working cross-culturally rather than leaving it for Yolngu and institutions to bridge the differences. The focus on accountability of ATSI people to the state, in a form defined by the state, has served to erase Indigenous defined versions of accountability to their own laws and has reinforced the belief of the inferiority of Indigenous cultures. ATSI ways of managing country and ceremonies are rendered invisible. Westbury & Dillon (2006) stress that failure to appreciate the diversity of Indigenous people and acknowledge Indigenous cultural and value frameworks condemn policies and programs to failure.

The positions theorised by various Indigenous and non-Indigenous advocates clearly demonstrate that whilst there is no single homogeneous perspective on Indigenous governance, there are certain elements common to the perspectives shared by Indigenous Australians regarding Indigenous governance. Both Indigenous and non-Indigenous advocates maintain that Indigenous and non-Indigenous governance systems are far from separate in respect to issues of power, authority, transparency, legitimacy, accountability institutions and relationships (Smith & Hunt, 2008; Kjaer, 2004) and the 'one size fits all' approach that characterises much of the policy and program development agenda around Indigenous governance is unworkable and not sustainable. What has worked in one setting has not necessarily worked in another, as there are various layers of social and political relationships which have to be negotiated (ICGP, 2005). This reflects the earlier statement that each community is different and the governance arrangements within these communities differ. In spite of the many challenges ATSI people and communities face, good governance is essential to building sustainable Indigenous communities and both government and Indigenous people have a role to play in terms of building sound corporate governance practices that reflect both the diversity and complexities of Indigenous communities at the same time ensuring that Indigenous corporations meet their regulatory requirements (HREOC, 2008). Common to all the many uses of governance is the view that governance plays an essential part in our lives and communities as it impacts directly on an individual's welfare and basic human rights and their positions within families, their community and the corporations they come into contact with. Governance as such then creates and enforces policies and laws which the individual must abide by whilst in their family groups or within the community and or when coming into contact with corporations.

Upon reviewing the literature it is clear that government continues to view ATSI issues in terms of deficiencies to the point that Indigenous institutions and capacity is now commonly seen as 'problems' that cannot be overcome without special government intervention. Such representations reflect the interests and values of the dominant 'white' populace and function to maintain Indigenous marginalisation. This approach serves no purpose other than to reinforce the dominance of the Western culture over ATSI people as reflected in recent policies, such as, the NTER as discussed in Chapter 1 of this thesis. Whilst the dominant western culture maintains a culture of institutional dependency by not recognising and giving voice to Indigenous ways of knowing, being and doing, ATSI people will continue to be reliant on the very systems and frames that position them. What has emerged during this review is the realisation that literature on

Indigenous governance is in its embryonic stage and that alternative to Western dominant worldviews are not well articulated as the voices and the perspectives of Indigenous peoples have often been excluded in the highly emotional debates and governance conversations. By privileging Indigenous knowledge this chapter makes a contribution to the 'debate'.

2.5 CONCLUSION

By creating a space in which the voices of Indigenous people are privileged and heard Indigenous spokespeople and researchers are playing a pivotal role in creating new discursive spaces for knowledge construction by highlighting emerging Indigenous discourses. The different authors cited have illustrated some of the relationships between the broad narratives evident when people talk about Indigenous issues and the narrower mediated frames such as Indigenous governance. The authors cited demonstrate that Indigenous narratives and discourses tell a deeper story about the social inequities of Indigenous groups and that the ideologies and political aspirations of Indigenous Australians have often been at odds with the normative views of the dominant culture and the policy objectives of government. While each spokesperson has their own story and their own perspectives, collectively they challenge the normative views of governance as a political and economic undertaking by looking beyond the dominant Western perspectives and seek out other ways of knowing. This raises important questions on the presuppositions inherent in the discourse and the tension that exists between theory and practice and will be debated and dissected long into the future. The need for critical analysis of imposed Western dominant systems and the importance and advocacy of Indigenous knowledge is critical to the theory and practice of decolonisation.

CHAPTER 3 - RESEARCH DESIGN

INTRODUCTION

In order to create a space in which Indigenous voices are privilege and heard, it is important to describe the research design and the specific methodology used in this study to examine how Western colonial discourses frame and shaped the way in which ATSI people are represented and constructed. This chapter then describes the research methods employed in this study. The chapter is presented in three main sections: Section 3.1 provides an overview of the data collection process and justifies the use of the ORAC yearbooks and annual reports as an object of study. Section 3.2 includes a detailed summary of the genre of the ORAC reports. Section 3.3 discusses how the data will be analysed. Section 3.4 discusses the ethical considerations of the research and its potential problems and section 3.5 discuss the limitations and its impact on the study. This approach provides a valuable contribution to researchers and practitioners as it extends the understanding of how public sector agencies use annual reports to position ATSI people and legitimises the role of the State.

3.1 DATA SOURCE

In contrast to other studies that have utilised multiple methods of data collection, this study focuses specifically on the reporting periods ending 30 June 2005 through to 30 June 2006, the last financial period in which the ORAC administered the Aboriginal Councils and Associations Act. Unlike previous reports that tend to report on the level of non-compliance by ATSI corporations, the 2005/2006 provides a glimpse of the political environment in which ORAC administered the ACA Act and it marks the end and the beginning of a new era in Indigenous governance from the old and outdated legislation (the ACA Act) to the CATSI Act and the newly established administrative body ORIC. McQueen (2001) argues that more work certainly needs to be done on the manner in which annual reports act as transmitters of cultural values and in what way the 'values' transmitted in these reports reinforce orthodoxies regarding overall social objectives. This study provides an ideal opportunity to begin the investigation of how cultural values are transmitted through the government sanctioned annual reports, particularly as a review of the literature suggests that the annual report produced by government have not been subjected to this kind of scrutiny and as such warrants an investigation as proposed.

As the focus of this study is on the way in which ORAC represent and construct ATSI people, I focus

specifically on the narrative sections of the annual report, including the Registrar's overview of the year in review within the reports as these provide an insight into communication strategies adopted by ORAC. I also consider the use of photographs and cultural makers. I have relied heavily on the 2005/2006 annual report as the principal document in this space, as the other documents supplement the evidence of governance but do not add anything of particular value. The 2005/2006 annual report not only includes both a chronology of events as well as detailed information about the department's expenditure and current performances, it contains a number of intended and obvious messages which it embodies and it also contains a number of unintended and hidden semiotic messages which it transmits. More importantly though, the texts have been sourced for their richness of text in terms of revealing values, beliefs and frames around ATSI people and governance and they provide an ideal opportunity to identify key themes, trends and discourses in relation to Indigenous governance. Further to this the reports are easily accessible and readily available to the public and are available electronically through the internet or in a hardcopy and are usually housed within Commonwealth Government Offices located in various locations throughout Australia.

In gathering data about the role of the State in Indigenous affairs I have drawn on previous years reports and submissions, historical documents, reports such as the Hansard Reports on capacity building and ORAC submissions to government, formal correspondence and other forms of communication such as the internet to source both historical information on ORAC services and more importantly issues to do with governance and ATSI community organisations. This data enables a contextualised understanding of the social relations producing the conditions in which Indigenous governance is viewed and talked about. Even though the research commenced in 2005, the research topic is still very relevant today as it was 10 years ago as ATSI organisations and communities continue to grapple with the demands of a legislative frameworks which continue to maintain settler colonial ideologies and that do not reflect the diversity of ATSI people and culture and the diversity within these communities and organisations.

The increasing importance of the design of the annual reports and the methods used to produce the annual reports raise important questions in regard to the role and function of annual reports. In order to understand the intent and the overall communicative purpose of the annual reports, I examined the genre and the design conventions associated with the production and publication of the annual reports.

3.2 GENRE OF THE ORAC ANNUAL REPORTS

There are various ways in which government communicates with and provides information to its stakeholders and targeted audiences. These can take the form of electronic information and or written communications and can include information flyers, media releases, newsletters, annual reports, policy documents and so forth. One of the most common forms of reporting for government is the annual report. The annual report plays an important role in terms of reporting on the annual performance of the Department and as such is easily recognised as a specific genre. The annual report is produced by government and reports on the actions and activities undertaken by the department. Breeze (2013) maintains that the report as a whole can be thought of as a hybrid genre, containing different sections with different origins and different communicative purposes. For example, the review of the year is a self-description which is generally written in a positive light and will include an overview of the year and other highlights. This section obviously fulfils a public relations function. In order to connect with the reader, the ORAC reports like any other annual reports have included and used imagery, descriptions, and visuals to create some form of emotional connection to the reader. The annual report is invariably a carefully crafted piece of communication with a specific purpose and so its intentional qualities are those with which we must first and foremost be concerned.

As this study seeks to understand how ORAC represents and positions ATSI people, I examine both the genre and the design of the reports and the visual conventions associated with the annual report. The ORAC reports contain within them a number of persuasive messages, values and ideologies that go far beyond data on their yearly progress. Many decisions have been made on many different levels about what to include and what to omit and why; it therefore selects and orders what it summaries (Halliday, 1995). The decisions of what to include and what to exclude are multifaceted, but not transparent. McQueen (2001) argues that, within the context of annual reports, design considerations such as photographic style, composition and the selection of subject matter do not happen 'accidentally' but are deliberate choices made by designers with the intention of persuading report readers (p. 8). The people who control the production of images and texts create these with the intention that they be read in a particular way in order to advance a particular viewpoint that is in their interest (Hall, 1980). What is not as self-evident are the hidden messages contained within the reports that reinforce certain hegemonic views of society which come to be regarded as natural and self-evident and serve only to suppress alternative viewpoint (Hall, 1980).

The enactment of legislation and the statutory requirements for financial reporting as well as the need for accountability and transparency have influenced the need to implement legal requirements for reporting on a department or agencies activities. The Annual report is one of two principal accountability mechanisms between Government and Departments and from Departments through (or on behalf of) Government to the Parliament. The second is the Portfolio Budget Statements (PBSs). The Portfolio Budget Statements set out performance targets for departmental outputs and contributions to outcomes when funds are appropriated and the annual reports report on achievement. The Portfolio Budget Statements and the Annual Reports provide the Government and the Parliament with detailed information about the actual performance of departments and forecasts of future needs and expectations (Department of the Prime Minister and Cabinet, 2007). The ORAC documents form part of the more detailed departmental annual report which is important in the accountability of the Registrar for the use of his or her employment and other powers (Department of the Prime Minister and Cabinet, 2007).

The annual report is a finalisation of the Agency's achievements, income and financial expenditure for the financial year and is a component for maintaining transparency and accountability to external and internal stakeholders. It includes a detailed summary of the range of services and activities undertaken by the department and formally acknowledges the achievements carried out by departmental staff for the financial year. Pursuant to subsections 63(2) and 70(2) of the *Public Service Act 1999*, the report aims to inform Parliament and stakeholders of:

- the primary functions and responsibilities of the Department; and
- significant activities that were undertaken during the year highlighting specific achievements against budgeted outputs and the Departments fiscal management and performance.

There a number of target audiences for the annual report, which includes, members of Parliament, Commonwealth and State Government Departments and Agencies, the media, potential employees and consultants and the general public. The annual report serves three purposes and is tabled in the Legislative Assembly primarily as an accountability reporting mechanism for the Department's respective Ministers to the Parliament. Secondly, the annual report provides information for other government agencies and the wider public about the wide range of activities undertaken by the Department, the purpose of these activities and how

successful they are. Finally, the ORAC Yearbooks form a part of the Government's historical record and demonstrates the continuity of the different bureaucracies, in this case, the Office of the Register of Aboriginal Corporations with a new version published every financial year (ORAC, 2005/06). The ORAC yearly reports contain a core set of information and include the following items:

Review by departmental secretary; Departmental overview;

Report on performance; Management and accountability; financial statements; and other mandatory information.

The annual report requirements are prepared pursuant to subsections 63(2) and 70(2) of the *Public Service Act 1999* and approved by the Joint Committee of Public Accounts and Audit (Department of the Prime Minister and Cabinet, 2007). The ORAC yearly reports comply with the mandatory reporting standards and regulations of the Australian Government and are consistent with all other Australian Government annual reporting requirements.

Government departments seek to manage their communications strategically and as such the context within which the reports are produced thus provides both opportunities and constraints on what and how communications are managed. Originally designed as a communication tool to justify funding and expenditure against the vision and the mission statement, the annual reports are now being used as a promotional tool to build relationships and to bring about change through the management of perceptions. It is through the use of promotional genres that new discourses are articulated and institutionalised (Fairclough, 2001a, p. 254). Access to annual reports both online and in print has transformed the annual report from a key information document into a key promotional document which serves no other purpose other than to influence the reader by using the report as a tool to justify funding and promote and legitimise the role of ORAC as a regulator.

3.3 DATA ANALYSIS

In order to decolonise and deconstruct the ORAC reports, I explore the cultural lens and the context in which the writing takes place. I focus specifically on the content and the layout of the reports; how it is presented and the sort of perspective the writer is taking to get the reader's attention. I look at the emphasis given to certain concepts in which some texts are given prominence or certain elements are emphasised or downplayed in order to construct a message

that conforms to the producer's worldview. I look at the thematic structure of the text (the way in which Indigenous people their situation and their problems and the solutions identified for dealing with the problems) and its information focus (especially any information omissions) to produce its *effect of truth*? This entails focusing on claims to truth or to the natural way of things. As well as the visual and textual devices used to claim truth, I focus specifically on the presumptions and the way in which the narratives are structured and what the language in the stories does both on the textural as well as the cultural level. The intent is to explore how some discourses act to maintain invisibility of Indigenous peoples and the invisibility of colonial privilege. I pay detailed attention to structure and strategies of such discourses and to the ways in which these stories relate to institutional arrangements, on the one hand; and to the audiences on the other hand. I focus specifically on the representation of culture and the impact on the production and reproduction of stereotypes and how they colonise and marginalise. These sorts of questions address the productivity of discourse in the sense that they focus on its productions of meanings and things (Rose, 2001, p. 151).

I look at the subtle linguistic features, such as implications, insinuations and facile categorisations in order to analyse how the documents are biased. I take note of what is not said as well as what is. Van Dijk (1997) argues that information left apart or is absent from the narratives belongs to the mental mode of the author, that is to say, that it is known by the author. Different people construct different meanings out of texts, as there are multiple ways in which the world can be known. If the writer does not mention something, it often does not even enter the reader's mind and thus is not subjected to his or her scrutiny. It is difficult to raise questions about something that is not even there (Huckin, 1997). Where these are not challenged readers can be manipulated through the use of presuppositions and omissions.

I look at the use of language, keywords and extracts that appear to take certain ideas for granted as if there were no alternatives. I also explore visual signs, symbols and images contained within the report. The extracts selected for analysis include statements that have been highlighted in some way within the document, by the use of colour, italics, blocking, or headings. The extracts serve as summary statements within the documents, and, as such, they set the tone and summarise the 'flavour' of each document (Taylor, 2007). The aim is to investigate the rules for what can and cannot be said and the rules for what is considered to be true and false (Foucault, 1991). Whilst these tools suggest a prescribed way of undertaking the analysis, analysis is both personal and interpretive and therefore these criteria were used as a guide.

3.4 ETHICS

This research was conducted following Flinders University procedures for Ethical Research. As described in the introduction to this chapter my personal and professional experiences have impacted significantly on the way in which I have viewed the world and Indigenous corporate governance. It is important that I discuss the bias that is inherent in this research as I believe that my varied experience as a recipient of services, an employee of an Aboriginal Community Controlled Corporation and my experiences as a senior public servant responsible for monitoring Commonwealth funding gives me first-hand experience and understanding of the complex issues around Indigenous governance. These experiences have changed the way in which I think about Indigenous governance and the role of government and the role of Indigenous people. While some may argue that this could affect my objectivity, alternatively it motivates me to become more focused and committed to seeing research conducted well. Accordingly, the primary ethical concern is that readers will recognise that it is my personal and professional experiences that have informed the research.

While human subjects are not directly involved in the inquiry I recognise that ethical considerations are still a factor. As the source data for the project was taken entirely from textual material already in the public domain there were few ethical issues to navigate. The only ethical responsibility involved in the project was for me, as author, to acknowledge that unlike traditional research, Indigenous knowledge, ways of being and doing does not claim objectivity instead it acknowledges that all research is conducted from a standpoint and that failure to acknowledge that standpoint is dangerous (Kahu & Morgan, 2007). Therefore the articulation of the values with which this research is imbued provides the reader with an understanding of the nature of my biases, thus contributing to its strength and depth of the research.

Potter and Wetherell (1994) argue that coherence is another form of ethics, although recognised as just one possible reading of the data an effective analysis has a sense of coherence and completeness with no loose ends or unexplained features and that information contained within the research thesis is accurately reported on and reference to any materials is acknowledged. I have attempted to provide sufficient extracts of texts to allow the reader to assess for themselves the validity of my interpretations.

3.5 LIMITATIONS OF THE RESEARCH

Australian governments require an annual report to be produced and published each financial

year; these reports in their entirety provide a historical record of key events and ideologies. Up until recently, there has been limited attention, given to the importance of the annual report and its influence over the perceptions of its targeted audiences. Even though there are numerous research projects that focus on the annual reports as a research topic, these studies have tended to focus on the design, role and function of the corporate annual reports. This study is very different to those, in that, my study focuses on how the ideologies and frames contained within the government reports, such as the ORAC annual reports, perpetuate and sustain western dominant colonial ideologies that serve only to position ATSI people within unequal relations of power. As the topic is relatively underdeveloped, this has subsequently impacted on the number of publications on which I can draw reference to and make comparisons with. In spite of the limited number of publications in which I can draw from, the ORAC yearbooks provide sufficient information to enable me to critically review the ideological values and beliefs contained within the ORAC yearbooks and provide a new beginning for further research into the power of language and images in government reports. Further to this, the research may be perceived as being limited in that I have not included the lived experiences of others. Interviewing other Indigenous people may have provided an additional dimension to the research. I have based the research around my own personal and professional experiences and understandings and draw heavily from the stories of other Aboriginal people as documented in the different governance conferences and forums during the last decade. In doing so, it is hoped that stories of others support or give credence to the need to understand how government represent and position ATSI people and the effects this has on the way in which they work with and develop policy and programs intended to benefit Indigenous Australians.

Even though the study has taken some time to complete the issues within ATSI communities continue to plague both government and Indigenous Australians. The outcomes of this study will contribute to the theoretical debates around the relationship between and amongst Australian governments and ATSI people.

3.6 CONCLUSION

In this chapter, I have sought to provide an overview of the research design, method, data collection and analysis, ethics and the limitations of the research thesis. Guba & Lincoln (2005) suggest that some methods, such as decolonising theory are more suited than others to conducting research on human construction of social realities as participants have some power

over the context of the research as well as the opportunity to reflect, develop self-awareness, find a voice, obtain information and express repressed emotion. It is anticipated that a number of common themes will emerge from the data and that the data yielded will include insight and understanding into the use of discourses and frames which situate ATSI people as 'other' (different and problems to be solved), assisted (culture as deficit paradigms) or feared (Aboriginality as politics).

CHAPTER 4 - THE RESEARCH CONTEXT

A HISTORY OF THE OFFICE OF REGISTRAR OF ABORIGINAL CORPORATIONS

(ORAC)

INDIGENOUS COMMUNITIES & INDIGENOUS ORGANISATIONS

INTRODUCTION

In Chapter Three, I reviewed the literature around the impact of colonisation on Indigenous governance and described the key terms used throughout the thesis. This chapter aims to contextualise the historical and political ideologies which gave rise to the enactment of the ACA Act and the subsequent establishment of the ORAC as this provides the context for the study. This chapter critically examines whether the role of ORAC is a repetition or modification of familiar historical patterns and what if any foundation exists for claims that the work of ORAC enables the effective governance of ATSI communities and the effective operation of ATSI organisations. I conclude with a critical review of the use of the term Aboriginal community and Aboriginal organisations as they are commonly discussed in literature and policy statements. My intent is to identify the tensions and binaries that may exist between dominant Western world views and ATSI perspectives. In this context, a decolonisation analysis restores the place of Indigenous knowledge and cultures. As discussed in Chapter 1, it is not my intention to review or to discuss in any detail the corporate law aspects of the ACA Act as this has already been undertaken. I seek to identify and critique the political ideologies which influenced the foundations and the establishment of ORAC and the history and the establishment of Aboriginal communities and Aboriginal organisations.

In section 4.1, I undertake a chronological summary of the key political events and debates that led to the enactment of the ACA Act and I summarise the various reviews and the impact of these reviews on the ACA Act. I include a discussion of ORAC and I critically analyse the services provided by ORAC. 4.2 seek to deconstruct the use of the term Aboriginal community. The literature suggests that the ATSI communities are complex, variable, dynamic and geographically dispersed amalgams, which do not necessarily fit the mould of 'official' (i.e. white Western) conceptualisations of 'community. I argue that the Western notion of community is inherently problematic, as the use of the word 'Aboriginal community' means different things to different

people. 4.3 problematise the discursive constructions of 'Aboriginal organisations and 4.4 conclude the chapter.

In order to decolonise the role of ORAC, we must first understand the historical and political context in which ORAC evolved, as the philosophical beliefs and values that guide and underpin the work of ORAC influence what is talked about and how it is viewed and as such creates assumptions and rationales that authorise some policy solutions and not others. The first section of this chapter offers a chronological account of the introduction and the implementation of the ACA Act and sets the stage for the chapter's analysis as it provides detailed contextual information about key political events leading to the enactment of the ACA Act 1976 and the establishment of ORAC. The second section describes the reviews and reform of the ACA Act and the implementation of the CATSI Act. In this section of the chapter, I rely chiefly upon key government and review documents to develop a coherent account of the enactment of the ACA Act 1976. The latter section provides a critique of the justification for the enactment of the ACA Act as this provides the context for my discussion of settler colonial relations.

4.1 KEY POLITICAL EVENTS LEADING TO THE ENACTMENT OF THE ABORIGINAL COUNCILS & ASSOCIATIONS ACT 1976

An examination of the impact of colonisation on Indigenous knowledge, ways of being and doing as discussed in chapter 3, demonstrate how Aboriginal peoples' fate was constricted and framed by legislation and law which were based on racist beliefs and hegemony and were used by the government to dispose of Aboriginal identity by way of behavioural change. Prior to 1967, Indigenous input into policy was extremely limited; responsibility for ATSI people's welfare rested with the States and the only Commonwealth involvement in Indigenous affairs occurred within the Northern Territory and the Australian Capital Territory (Pratt & Bennett, 2004). Aboriginal people were effectively made invisible. The implementation of key legislative frameworks and policies introduced by each Australian State and Territory excluded Aboriginal voices and did not offer any form of protection for Aboriginal people, but instead were punitive and restrictive and allowed for an instrument of ruthless control whereby Aboriginal people were denied the most basic rights (Milnes, 2001, p. 32).

The concern for the appalling living conditions and welfare of Aboriginal peoples grew in momentum and there was a gradual increase in pressure from both Aboriginal and non-Indigenous Australians to do something to rectify the parlous state of Aboriginal welfare across

the country. Aboriginal suffering and welfare received both national and International outrage in 1957. A report by the Western Australian government drew attention to the plight of Aboriginal people still living traditionally in the central Australian desert. The report (known as the Grayden Report) argued that the extreme conditions and the high level of malnutrition, blindness and disease amongst the Aboriginal people of the Warburton Rangers region was made worse due to the use of their lands by the Australia-British atomic testing program. A short film (later called *Manslaughter*) exposing the suffering of Aboriginal people was shown on television in halls and community centres across the country to a horrified Australian public (National Museum Australia). The publicity surrounding the civil rights for American blacks in the United States found a resonance in Australia as critics began to focus their attention on the relative absence of Aboriginal civil rights (ABS, 2004). Following the outrage generated by the film the Victorian Aborigines Advancement League (VAAL) was formed in 1957. In 1958 VAAL joined forces with similar groups and formed the Federal Council for Aboriginal Advancement (FCAA). Immediately the FCAA set out to campaign for the amendment of the Australian Constitution to give the Commonwealth power to legislate for Aboriginal people. The Aboriginal-Australian Fellowship in partnership with Jessie Street and Brian Fitzpatrick of the Council for Civil Liberties ran a petition campaign on the 29 April 1957 which sought to change the laws governing an Aboriginal person; which was presented to the House of Representatives on the 14 May 1957. The following year the FCAA tabled a second petition in the House of Representative on the 17 September 1958. The petition which was similar in language was signed by some 25 000 people. Both petitions called for the amendment of section 51(xxvi) and the repeal of section 127 of Australia's Constitution, which required a national referendum (National Museum of Australia). In 1962 a campaign to run a national petition to collect a quarter of million signatures from all states was run and from October 1962 to October 1963 activists set up tables in the streets of all capital and regional cities, and in country towns urging people to sign the petition. In 1965 a group of students from the University of Sydney (Student Action for Aborigines) led by Aboriginal activist Charles Perkins organised a bus trip, which was dubbed a 'Freedom Ride' through western New South Wales used the media to show the discriminatory practices and by-laws against Aboriginal people in these towns. This brought more attention to the quandary of Aboriginal people and made it more difficult for the government to put an opposing view without appearing in a negative light to the electorate (National Museum of Australia).

After 10 years of campaigning a referendum was held to change the Australian Constitution and

on the 26th May 1967 a Referendum to amend section 51 and section 127 of the Australian Constitution was held. The proposed law (Constitution Alteration (Aboriginals) 1967) sought to give the Commonwealth Parliament power to make laws with respect to Aboriginal people wherever they lived in Australia. The Referendum required Australian voters to vote on two questions. The first question sought to alter the balance of numbers in the Senate and the House of Representatives. The second question referred to the removal of two references in the Australian Constitution, which discriminated against Aboriginal people. Over 90% of Australian electors voted 'YES' to alter the two clauses in the Australian Constitution in reference to Aboriginal people. These included:

Sections 51 – The Parliament shall, subject to this Constitution, have the power to make laws for the peace, order, and good government of the Commonwealth with respect to :-.(xxvi). The people of any race, other than the aboriginal people in any State, for whom it is necessary to make special laws.

Section 127 - In reckoning, the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives should not be counted (Attwood, 1997; Dow & Gardiner-Garden, 2011).

The removal of the words '*...other than the aboriginal people in any State...*' in section 51 (xxvi) and the whole of section 127 were considered by many to be representative of prevailing movement for political change within Indigenous affairs. As a result of the political climate, this referendum saw the highest YES vote ever recorded in a Federal referendum, with 90.77 per cent voting for change (National Archives of Australia, 2018). The National Archives of Australia (2018) make the point that because the majority of parliamentarians supported the proposed the proposed amendment, a NO case was never formulated for presentation as part of the referendum campaign.

The passing of the 1967 Referendum resulted in the policy of protection and assimilation being denounced and replaced by a policy of 'self-determination' and indirectly gave rise to and influenced the enactment of a number of key legislative platforms, such as: *the Aboriginal Loan Fund Commission Act 1974, the Aboriginal Land Fund Commission Act 1975 and the Aboriginal Land rights (NT) Act 1976, the Aboriginal and Torres Strait Islanders (Queensland Discriminatory Laws) Act 1975, the Aboriginal and Torres Strait Islanders (Queensland Reserves and Communities Self- Management) Act 1978 and the Aboriginal Councils and Associations Act (ACA) 1976*. This

period of Commonwealth policy development marked a significant but slow shift in ideology from protection and assimilation to self-management and self-determination for ATSI people and was framed as advancing the rights of Indigenous Australians.

Following the highly successful 1967 Referendum, the Coalition government established the Council for Aboriginal Affairs (CAA). The CAA was comprised of three white middle-class men who were viewed by the government as 'experts' and were appointed because of their social positions whereby they were deemed to be experts on Aboriginal people because of their established track record. Constructions of Indigenous peoples and the solutions to address these constructions were drawn purely from the experts perceptions, observations and worldview that continue to be privileged over those views of Aboriginal people themselves. Their role was to travel Australia to ascertain the views of Aboriginal people concerning the future role of the Commonwealth government in the area of public policy. Even though the CAA undertook consultations with Indigenous communities at the time, Indigenous people had no formal role within the structures through which advice on Indigenous issues could be tabled with the Coalition government (Dow & Gardiner-Garden, 2011).

One of the first recommendations put forward by the CAA was the need to create a statute for simple incorporation of Aboriginal groups to administer land held in trust. The CAA concluded that the existing legislation was inappropriate for Aboriginal communities and groups as it was too complex and onerous for most Aboriginals living in remote areas, and a separate system of incorporation for Aboriginal organisations be established (ORAC, 1999/2000, p. 4). The CAA formed the view that the incorporation of Aboriginal groups and communities would not only provide communities with a legal entity for dealing with outsiders, incorporation would enable organisations and communities to receive government funding for employment, business and other purposes (ORAC, 1995/96). In spite of the calls for the recognition of a general incorporation statute for Aboriginal people, the enactment of legislation for Aboriginal people did not occur during this time due to the Instability within government, short-term political cycles, the shifting of authority from state to federal government and political mistrust which characterised much of the decision making at the time (The National Museum of Australia, 2007-2009). For Aboriginal people, it heralded an era of unfulfilled ambitions and broken promises.

Pratt and Bennett (2004) make the point that it was not until the Whitlam government came into power that Indigenous people began to have a presence in the structures through which government received advice on Indigenous affairs. One of the first initiatives under the Whitlam

Government was to abolish the CAA and the OAA and to create the Department of Aboriginal Affairs (DAA) in 1973 in line with the introduction of the 'self-determination' policy, which guided much of the government's thinking in relation to Aboriginal Affairs policy-making (Altman & Sanders, 1991; Westbury & Sanders, 2000; Dow & Gardiner-Garden, 2011). Self-determination was described as Indigenous people being involved in decision making about and the management of their own affairs (Rowse, 2005). The then Minister for Aboriginal Affairs, Gordon Bryant reinforced the government's policy of self-determination, stating that Labor would not make decisions on behalf of Aborigines (Dow & Gardiner-Garden, 2011).

In the same year, the DAA, commissioned an inquiry into appropriate ways to recognise Aboriginal Land Rights. This resulted in the establishment of the Woodward Land Rights Commission (AIATSIS, 1996; Altman & Sander, 1991, Dow & Gardiner-Garden, 2011). One of the major recommendations flowing from the inquiry was the need for the government to make provisions for the incorporation of groups claiming land under the Northern Territory Land Rights legislation. In formulating legislation for Aboriginal corporations, Justice Woodward argued for a regime based on the following five principles:

the legislation must be simple so that those who are working under it can readily understand it;

it must be flexible, so as to cover as wide a range of situations and requirements as possible;

it should, as far as possible, make provision for Aboriginal methods of decision-making by achieving consensus rather than by majority vote;

it must contain simple provisions for control of the situation if things go wrong within an organisation through corruption, inefficiency, outside influences or for other reasons; and

it should be so framed as to avoid taxation of any income that has to be devoted to community purposes (Watson, 2006).

The recommendations put forward by Justice Woodward in relation to the Bill for the ACA Act and the Aboriginal Land Rights (Northern Territory) Act 1976 was introduced into Parliament in 1975 under the Whitlam Government but lapsed due to the double dissolution of Parliament in November 1975 (Dow & Gardiner-Garden, 2011) . The then Minister for Aboriginal Affairs, Les

Johnson, reiterated the need to provide a vehicle by which Aboriginal communities and organisations, whether they hold land or not, could effectively achieve their aims and objectives within the Australian community. Minister Johnson argued that, 'the legislation should be flexible enough in such matters as the establishment of the geographical base and membership of a corporation, the election of the governing executive for a community, the making of rules appropriate for that community and the control of the community's fund and property' (AIATSIS, 1996; The National Museum of Australia, 2007-2009, p, xx).

The Bill for the ACA Act was passed in 1976 under the Liberal/Coalition Government led by Prime Minister Malcolm Fraser. The then Minister for Aboriginal Affairs, The Hon. Ian Viner MP, maintained that existing State and Territory legislation was not adequate to meet the needs of Aboriginal communities. Viner argued that:

the complexities of State and Territory legislation was confusing enough to anyone but company lawyers; one can well imagine the bewilderment of Aboriginal elders in remote tradition-oriented communities, who simply want to get on with their own projects, when faced by the immense amount of documentation necessary to enable them to act as a legally recognised corporate body. It is hoped that the legislation would eliminate the need for communities to work through the complexities of State and Territory legislation (The Hon Ian Viner MP cited in Australian Institute of Aboriginal and Torres Strait Islander Studies, Final Report of the Review of the Aboriginal Councils and Associations Act 1976 (1996) Volume One, p. 33 (Fingleton, 1999).

In his summation, The Hon Ian Viner MP continued his support for the legislation by stressing the importance of providing a legislative framework that would enable ATSI people and groups to incorporate, by arguing that:

what is so important about this measure is that it will recognise cultural differences between the Aboriginal and non-Aboriginal societies and enable Aboriginal communities to develop legally recognisable bodies which reflect their own culture and do not require them to subjugate this culture to overriding Western European legal concepts'. It would also enable Aboriginal bodies to form an acceptable legal body for the purpose of receiving Government grants' (R L Viner, Commonwealth Parliamentary Debates v. 99 p. 294 -67).

The ACA Act was enacted and assented to on the 15th December 1976 following amendments assented to on the 22nd June 1978 and came into operation on the 14 July 1978. The ACA Act was admitted within the Aboriginal Affairs portfolio within the Department of Aboriginal Affairs and remains within this portfolio at the writing of this thesis (Dow & Gardiner-Garden, 2011). The Act allowed for the incorporation of two types of Indigenous corporate bodies: Aboriginal councils and Aboriginal associations. In its original form, the ACA Act allowed Indigenous Australians to create their businesses in a culturally appropriate manner. For example, s 43(4) of the ACA Act stated that '[t]he Rules of an association with respect to any matter may be based on Aboriginal custom'. The incorporation of these rules into the legislation was viewed as a significant step towards the legal recognition and acceptance of Indigenous culture and values into the running of Indigenous corporations (Nehme & Juriansz, 2012).

Even though the parliamentary talk appear to be of sympathy (we make these decisions for their own interest), the ideology behind the enactment and the subsequent implementation of the ACA Act was in part a flow on from the need to respond albeit in a perfunctory manner over the treatment of Aborigines and the views espoused by government in regards to 'the Aboriginal problems'. Such processes of persuasion involve not only persuasive argumentation and rhetoric, of congenial opinions but also the authority with which the politicians and the media are able to present such models (Van Dijk, 1993). Political discourses as such, directly influence others. In other words, the reproduction of the views that Aboriginal people have no legal recognisable bodies and require intervention, in parliamentary discourses may be seen as a legitimisation or justification of decisions (van Dijk, 2008). This then becomes the basis of the dominant narratives in which settler- dominated institutions assist Aboriginal people as they are not capable of helping themselves and government have an obligation to support Aboriginal people as citizens. Discourses as such have contributed to the recent normalisation of Aboriginal people as 'other' and problems to be solved by government.

Parliamentary colonial discourses as such problematises Aboriginal culture, this, in turn, influences public view and has led to the development of pervasive stereotypes and myths which have portrayed Aboriginal people and culture as primitive, simple and carefree or more recently lazy, unproductive and dysfunctional. These stereotypes and myths are often repeated with a superficial understanding of the history and the makeup of Aboriginal communities. Negative stereotypes and myths influence the way in which people think about things of which they may not have direct experience and as such, become powerful. Reconciliation Australia makes the

point that the most difficult relationship is not between black and white people but between white Australians and the symbols created by their predecessors. Indigenous culture is only recognised by white Australia if it is traditional and fixed (Moreton-Robinson, 1999). Most Australians do not know and relate to Aboriginal people. They relate to stories told by former colonists (Anderson, Grossman, Langton & Moreton-Robinson, 2003). The lack of recognition of the diversity amongst ATSI groups and communities as well as the historical and political context in which these groups and communities have evolved adds to the myths and misconceptions around ATSI people and communities.

During the last three decades, the ACA Act has been subject to a number of reviews. What follows is a description of the reviews undertaken as this is important for understanding the ideologies that have framed the way in which ORAC has conducted their business.

4.1.2 REVIEWING THE ACA ACT

In the period since 1976, government policy in the area of Indigenous affairs has changed dramatically and there have been significant changes in the circumstances of ATSI people and the way in which government work with ATSI people. Even though the ACA Act was framed as advancing the rights of ATSI people and was seen as one of the most important Acts to come out of the period of self-determination the Act was complex, highly regulatory, culturally alien and difficult to comply with (Davidson, Gunn, Nielsen, Rimmer & Gardiner-Garden, 2006). The enactment of the ACA Act and the establishment of the ORAC were drawn purely from the expert's perceptions, observations and worldviews with no input from ATSI people. This resulted in legislation that was designed in a way to limit the capacity of Indigenous individuals and communities to control or participate in decisions affecting their lives and served only to stabilise and normalise ATSI people by regulating their governance practices. Calls for greater "accountability" for funding to Indigenous corporations and changes to the legal environment for corporate regulation resulted in a need to review the legislative framework and the structure of ORAC. During this period the ACA Act underwent three reviews.

The first review which was conducted in 1989 was centred on finding ways to ensure that the standards of accountability were in place. This resulted in amendments to the reporting obligations of corporations and strengthened the statutory role of the Registrar which resulted in more strict reporting requirements with the aim of establishing greater accountability and was enforced through amendments to the Act in 1992 (Muller, 2008). The literature suggests that the

outcomes of the review in 1989 have not always benefited ATSI people as intended but instead have strengthened the power of the Registrar. Rather than satisfying Indigenous cultural needs, the rules instead restrained them by preventing members from running their associations in accordance with cultural practices (Davidson et al, 2006; Mantziaris, 1999). The insufficient exercise of administrative discretion by the Registrar to insist on the conformity of the 'model rules' did not allow for bodies to incorporate in a culturally appropriate way with respect to the group's structure and decision-making processes.

The second review, known as the Fingleton Review conducted in 1994. The independent review commissioned by ATSIC was undertaken by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS). The terms of reference for the review were to consider the effectiveness of the Act 'in providing culturally appropriate forms of incorporation for ATSI communities (Fingleton, 1996, p.1). The review found that the 1992 amendments resulted in over-regulation and loss of flexibility and that the Act did not allow for cultural variations in corporate structures and decision-making processes as originally intended. The ACA Act was too prescriptive and rigid and served only to ensure greater accountability of Aboriginal corporations. The review called for a broader definition of accountability which would account for the multidimensional responsibilities and requirements to family, kinship groups and the wider Indigenous community and the public, bringing it back into line with its original intentions (Muller, 2008). The recommendations flowing from the Fingleton report resulted in no changes to the Act. Davidson et al (2006) argued that there was no opportunity to include any cultural variation to both the corporate structure and the decision-making process as it did not allow for flexibility as intended and it confused the financial and procedural accountability with the achievement of program objectives, which led to undue emphasis on the enforcement of compliance with statutory requirements. Similarly, Watson (2006) makes the point that the reviews had not considered whether aspects of the corporate model, such as the fiduciary duty had cross-cultural applications. Watson (2006) concluded by making the point that the requirements of the ACA Act stem from a doubt about the capacity of Indigenous people to govern themselves.

The third review conducted in by Corrs, Chambers and Westgarth in 2002 concluded that the Act failed to address the special needs of Indigenous incorporators; the act was out of date with modern corporate governance and accountability standards and that the ACA Act suffered from a large number of technical shortcomings to the point that the ACA Act itself had become a source

of disadvantage for ATSI people. Further to this the amendments of the Act and the changes to the Registrars powers require ATSI people to be more accountable to government and did not set out to be flexible as first envisioned. The result was not only heavy overregulation but disconnection from the Aboriginal – that is, the cultural – purposes of incorporation (Corrs, et al, 2003). The review argued that in its current form the ACA Act was not able to keep up with the growing importance of ATSI organisations and that the new Act needed to provide special forms of regulatory assistance to support better corporate governance practices amongst ATSI groups. Corrs, et al (2003) maintain that although the laws governing Indigenous corporations needed to be modernised and that the special measures as identified in the ACA Act needed to be preserved. In order to ‘confer a benefit’ and or ‘secure adequate advancement’ for ATSI people, the review reiterated the need for ‘special regulatory assistance’ and that assistance would be positive rather than negative. It would extend to members and directors of corporations in developing skills necessary to participate effectively in corporate processes and to satisfy the requirements of regulatory compliance (such as education and training) (Corrs, et al, 2003). The review team maintained that there does need to be a shift in emphasis in the ACA Act away from enforcement-focused regulatory intervention, towards special regulatory assistance. The recommendations flowing from this review resulted in the subsequent repeal of the ACA Act and the enactment of the Corporations for Aboriginal and Torres Strait Islander Act.

4.1.3 THE CORPORATIONS FOR ABORIGINAL AND TORRES STRAIT ISLANDER ACT 2006

The CATSI Bill was introduced into the Australian Parliament in October 2006 and came into effect on the 1st July 2007. Unlike the ACA Act the CATSI Act does not allow ATSI groups to incorporate in the form of Aboriginal councils. Like its predecessors, the CATSI Act aims to empower Indigenous Australians (Nehme & Juriansz, 2012). Although the Corporations Aboriginal and Torres Strait Islander Act 2006 (CATSI Act) is based on the Corporations Act 2001, the CATSI Act has been maintained as a ‘special measure’ intended to benefit ATSI people under paragraph 4 of Article 1 of the Convention for the Elimination of Racial Discrimination (CERD) and the Racial Discrimination Act 1975 (RDA), which is the formulation required to bring the provisions under the external affairs power of the Constitution - Section 51(xxix). The Office of the Registrar of Indigenous Corporations maintains that whilst the CATSI Act largely replicates modern standards of duties for officers, directors and employees the Act continues to acknowledge the special circumstances of Indigenous corporations. The ‘special’ circumstances include ‘remoteness, capacity, culture’ and the need to

meet the requirements of special statutory regimes such as those that apply to native title. In addition to maintaining the special measures and recognition of the special circumstance of Indigenous corporations, under the CATSI Act, Aboriginal corporations are permitted to include provisions in their constitutions that take into account cultural factors. Page (2015) makes the point that it is unlikely that cultural factors will be permitted, as the CATSI Act already provides for mandatory 'internal governance rules' in all constitutions.

The newly enacted CATSI Act significantly changes the law governing Indigenous corporations compared with the repealed ACA Act (Page, 2015). The CATSI Act contains a number of significant changes to both the legislative powers of the Registrar, devolving more power to the Registrar and the reporting requirements of organisations. The Registrar has the power to change an ATSI Corporation's constitution on his or her own initiative if an organisation is not meeting internal governance requirements or is engaging in oppressive conduct. Statutory discretions serve only to re-enforce perceptions about Indigenous (in) capacity for self-governance (Rowse, 1989). In addition to this, the Registrar can appoint a special administrator with special power to deal with corporate failure, especially where it could threaten essential services of a remote community (ORIC, 2009). Further to this, the Registrar has the power to exclude certain types of organisations and to change an ATSI Corporation's constitution on his or her own initiative if an organisation is not meeting internal governance requirements or is engaging in oppressive conduct (ORIC, 2009).

Sullivan (2007) makes the point that even though the CATSI Act aims to be more adaptable and accessible, it is considerably longer and more complex than the ACA Act and ATSI people are still beholden to the Registrars discretion and western governance frameworks. The CATSI Act, unlike the Corporations Act, imposes significant control by the Registrar over the corporate design of Aboriginal corporations, far more so than does ASIC over companies limited by guarantee (Page, 2015). Page (2015) argues that the extra surveillance of Indigenous people through legislation such as the CATSI Act normalises a view of Aboriginal culture as not only dysfunctional but also a rejection of modern or liberal society. Aboriginal people can be viewed not just as incapable subjects but as potentially subversive subjects. McMartin (2007) similarly raises concerns with the inappropriateness of the CATSI Act as a prescribed model for Indigenous governance, she also makes the claim that the CATSI operates as a further instrument of government control by making Indigenous communities newly vulnerable to blame-shifting claims of corporate failure in the management of programs that are inadequately funded in the first instance.

The subsequent enactment of the CATSI Act resulted in changes to the ACA Act and the name of ORAC changed to the Office of Indigenous Corporations (ORIC). Prior to these changes, the ACA Act was administered by the Office of the Registrar of Aboriginal Corporations which was established under the ACA Act to support and provide an avenue for ATSI people and groups seeking incorporation. This study deals specifically with ORAC as ORAC administered and delivered the ACA Act. What follows is a detailed description of the evolution of ORAC as one of the three important and key regulating bodies within the Australian context.

4.2 OFFICE OF THE REGISTRAR OF ABORIGINAL CORPORATIONS (ORAC)

The ACA Act established the Registrar of Aboriginal Corporations – an independent statutory office holder appointed by the Minister for Families, Community Services and Indigenous Affairs (FaCSIA). The ACA Act confers upon the Registrar powers to intervene in corporations' affairs, similar to those exercised by the Australian Securities and Investments Commission (ASIC, 2005/2006, p. 14). The Registrar administers the ACA Act through the Office of the Registrar of Aboriginal Corporations (ORAC, 2005/2006, p. 7). ORAC is charged with the responsibility of delivering incorporation, regulation and related services to ATSI people in accordance with the *Aboriginal Councils and Associations Act 1976* (ORAC 2005/2006). ORAC is administered by public servants employed within the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). Changes announced by the Prime Minister in February 2006 resulted in ORAC being placed within the Department of Families, Housing, Community Services and Indigenous Affairs (DoFCSIA) (ORAC 2005/06). The Office of the Registrar of Aboriginal Corporations was set up to:

administer the *Aboriginal Councils and Associations Act 1976* efficiently and effectively;

provide support services for all matters arising out of the administration of the ACA Act;

improve awareness and understanding of, and compliance with the roles and responsibilities of the board under the ACA Act and their corporations; and

promote the requirement for corporations to be accountable to their members

(ORAC, 2005/2006, p. 8).

The Office of the Registrar of Aboriginal Corporations is the third arm to the Australian Government's oversight of corporations. The other two being the Australian Securities and

Investment Commission (ASIC) under the Corporations Act 2001 (the Corporations Act) and the Australian Competition and Consumer Commission (ACCC) under the Trade Practices Act 1974 (ORAC, 2005/2006, p. 2). Matulick (2003) and Beacroft (2006) maintain that the Office of the Registrar of Aboriginal Corporations is different to other regulating bodies as ORAC was established to provide support and capacity building services not offered by the Australian Securities Investment Commission (ASIC) and the Australian Competition and Consumer Commissioner (ACCC). During the last three decades, ORAC has undergone a number of significant structural and staffing changes which have been aimed at increasing the level of compliance and regulation of ATSI corporations. The increased funding and staffing have not always benefited ATSI corporations; this is represented in the number of corporations that have achieved compliance with the Act. In the 2005/2006 ORAC report, the Registrar makes the point that 46% of corporations have complied with the requirements of the Act this being the highest level of compliance achieved since the inception of the Act and the establishment of ORAC and the consolidation of their training and education program which is targeted specifically at the executive members and general board members. The following section provides a general overview of the major changes that have been undertaken by ORAC from 1991 to 2005/2006 financial year.

Prior to mid-1991 the Registrar was appointed on a part-time basis with responsibility for the administration of the ACA Act handed to a senior executive officer and the Office of the Registrar was supported by five staff members. The level of funding and staffing appears to reflect the number of organisations incorporating under the Act. The main activities undertaken by the Office at the time included basic processing and filing of documents. According to the Registrar at the time, 'the Office of the Registrar was not able to provide advice and training in relation to a corporations' responsibility and to properly monitor and enforce compliance with the Act because of limited resources (ORAC, 1991-1992). This impacted greatly on the level of compliance as ATSI people were given responsibility for managing communities and corporations with little or no training in relation to the management of organisations and communities. The mandate to provide support strategies to enable ATSI to be self-determining and to make decisions and to take control during the early phase of the ACA Act had all but disappeared. ATSI people were put in a position in which they had to sort through both funding and legislative requirements with very little understanding of financial management, business skills, financial and overall literacy.

In June 1993, the Registrar's position was upgraded to a full-time position with eighteen full-time staff. The main focus of the Office was to improve the accountability of Aboriginal Corporations

and to reduce the incidence of non-compliance with the Act. The Office was restructured into four sections accordingly, these included: registration, investigations, audit and compliance, client services and special projects. Education and training were again disregarded and the major focus of ORAC during this period was compliance. In spite of the increase in staffing numbers and the upgrade of the Registrars position to a full-time position the level of non-compliance with the Act remained high. The Registrar at the time attributed the lack of non-compliance with the ACA Act by governing committees to a lack of awareness and understanding of both the requirements of the Act and the ongoing responsibilities of having corporate status (ORAC, 1992/93). By focusing on the lack of awareness by the governing committee, the Registrar is inadvertently blaming ATSI people for the lack of compliance rather than, ORAC's ability to deliver important education and training to enable ATSI people to gain the necessary knowledge to comply with the requirements of the ACA Act. ORAC's own governance capacity and ability to deliver important governance training and workshops remained invisible in the debates around compliance.

In the 2005/2006 financial year, 2529 Corporation were registered under the ACA Act and the staffing at ORAC increased from eighteen staff to thirty-nine public servants, with a funding allocation of \$8.1 million. The Office was restructured into five sections this included the following sections: incorporation and regulation section which includes a regulation and incorporation support section and case coordination section; capacity building which includes client and (corporate) communications section; legislation and policy section; regulation and incorporation support (training) section; implementation of the CATSI Act and chief information officer and registrar support and business development and support (ORAC, 2005/06, p 21). On page 3 of the 2005/2006 ORAC yearbook, the Registrar, makes the point, that: 'a higher proportion of corporations than ever before were deemed compliant or partially compliant – that is, around 46 per cent'. ORAC contributes the improvement of compliance to analysing non-compliance and vigorously following up organisations that fall into this category.

The increase in funding and staffing from 5 part-time staff in 1991 to 39 full time staff in 2005 to carry out its regulation work can be attributed to the increase in ATSI organisations and groups seeking incorporation under the Act. However, in spite of the increase in staffing and funding, the level of compliance with the ACA Act raises concerns in regards to the education and capacity building approach advocated by ORAC. It also raises concerns in regards to ORACs intent and ability to act as both a regulator and an educator and whether the two competing roles can

operate effectively.

In their attempt to provide a framework for the regulation of ATSI corporations and a framework to guide their work with ATSI peoples, ORAC have identified a number of key principles which guide the way in which they conducts their business. These principles, as follows, advocate for nation building, the advancement of the rights of ATSI people by ensuring equality of human rights with others by providing a platform in which to promote the principles of self-determination, consultation and engagement at the same time recognising the unique role of ATSI peoples. The principles that guide the work of ORAC are as follows:

4.2.1 PRINCIPLES THAT GUIDE THE WORK OF ORAC

Building sustainability — encouraging corporations to adopt good practices in management and governance that maximise the use of resources and help them achieve their purpose;

Eliminating poverty — commitment to eliminating poverty in Indigenous communities and making sure we include the most disadvantaged and marginalised people in communities in any strategies to build capacity (e.g. women, children, the disabled);

Supporting economic development — recognising that economic development is a foundation for eliminating poverty and improving other social outcomes;

Being accountable — raising awareness that accountability to members, beneficiaries of corporations' services and communities underpins good governance and management practices. Organisations should meet their legal and other requirements in line with expectations of funding agencies, members and the communities they serve;

Managing conflict and disputes — helping organisations to resolve conflicts and develop effective conflict resolution processes. These processes should acknowledge different interests, build capacity and fit within cultural and community contexts;

Promoting knowledge management — recognising that access to information, experience and knowledge is an empowering process and making sure any management processes are user-friendly and accessible;

Fitting with culture — making sure incorporation models and processes fit with

culture in specific communities and localities, and that their interactions with Indigenous corporations are relevant to communities and localities;

Being responsive and accessible — tailoring our information and services to the needs of our clients and making sure they are easy to access and use; and

Building capability and social assets — developing capacity, knowledge and social assets to help build the sustainability of organisations (ORAC, 2005/2006).

Even though many of the principles espoused by ORAC fully support a nation building approach and seek to increase the capacity for self-rule; self-determination and sustainable community and economic development ORAC operates within the constraints of the ideological frameworks, structures and processes imposed by successive Australian governments. The frameworks are linked closely to dominant western frames. These principles seek to provide an authoritative standard for preventing and addressing the risk of adverse human rights by adopting special measures through education and awareness raising activities and set the foundation for the culture and work of ORAC. ORAC then operates within a colonial framework that is bound by the rules and structures of bureaucracies and systems of control which reflect Western ideology and Western attitudes, beliefs and practices that justify, privilege, normalise and legalise their place and power at the expense of Aboriginal people.

4.2.2 SERVICES PROVIDED BY ORAC

The services targeted specifically at ATSI groups, include:

providing accessible information about corporations incorporated under the ACA Act on the Public Register of Indigenous Corporations;

assisting groups that are considering incorporation and supporting them through the process if incorporation proves necessary;

assisting groups once they are incorporated, including support for dispute management, helping with meetings and answering queries about corporate governance;

assisting with concerns or complaints about corporations and taking action when necessary;

delivering training and learning materials to clients;

monitoring compliance of corporations with reporting requirements under the ACA Act and other key requirements such as tax; examining corporate governance 'health'; intervening when necessary; deregistering where necessary; and referring or conducting matters against individuals and corporations (ORAC, 2005/06, p. 15).

In addition to the above services, ORAC offers a toll-free number, along with a number of educational and training resources, which includes both accredited and non-accredited training packages designed specifically for Indigenous people and groups. ORAC maintains that the training is meant to compliment rather than duplicate mainstream programs and is offered to targeted high- need locations and groups around Australia. As well as providing accredited and non-accredited training ORAC publishes a number of electronic publications aimed at providing information to members through their website. Laura Beacroft, the former Registrar, makes the point, that the services provided by ORAC are not offered by the Australian Securities and Investment Commission (ASIC) or the State and Territory regulators. Further to this, the services aim to support the special needs and risks of ATSI corporations and are unique to ORAC. ORAC makes the claim that a key strategy in the success of this complex work is their communications with corporations through incorporation support, training and public information (ORAC, 2005/2006, p.4).

The services provided by ORAC, which include: a mix of regulation work, examinations, intervention, training and education delivered under the guise of providing assistance to ATSI people and corporations tend to focus on the technologies of administration and management and do not reflect ORAC vision statement, which aims to deliver services in a way that takes into account the special needs, requirements and risks of Indigenous corporations. The strategies implemented by ORAC to support ATSI people have some fundamental flaws in that the services have not taken into account the special needs, requirements and risks of ATSI corporations nor have the services considered the unique circumstances and the history of Aboriginal peoples. Instead, they have forced upon them a language and a legislative framework that is centred on Eurocentric western teaching pedagogy and perspectives with the majority of information written in English which is not conducive to Indigenous ways of knowing, being and learning. To assume that literacy is a simple skills acquisition process that can be delivered in a programmed way, in a short period of time, in a language not used by the learner in their speech community, and achieve outcomes comparable to mainstream standards is unrealistic (Kral, 2009). This is

particularly so when the gap in the literacy rates of Indigenous people compared to that of non-Indigenous people is enormous and English is a second or third language in many remote communities. Smith (2004) makes the claim that one area of crisis for Indigenous governance is the current state of educational outcomes. Between 2008 and 2014, the proportion of Indigenous students at or above the National Minimum Standards in reading and numeracy has shown no statistically significant improvement nationally in any of the eight measures (Years 3, 5, 7 and 9 in reading and numeracy) (<http://www.dpmc.gov.au/.html>). Unfortunately, these statistics have not improved greatly over the last fifteen years. Whilst government and indigenous organisations view education as critical for Indigenous people's full enjoyment or human rights, large numbers of children and young people face barriers to education at both a legal level and a cultural level (Brand, Bond, Shannon, 2016).

The lack of literacy together with the reliance on the internet as a tool for accessing and distributing information only serves to marginalise ATSI people rather than empower them, especially in those communities where a digital divide exists and access to the internet is limited. For Indigenous people living in remote regions of Australia, the digital divide can be seen as the absence of available services in some areas, but also minimal access in houses and buildings where internet services do exist, whether it be mobile or wired internet access (Rennie, Crouch, Thomas, & Taylor, 2010, p. 49). Many of the skills needed to access computer and other information are linked to people's levels of literacy (Eady & Reedy, 2009). The Australian Bureau of Statistics (2004) argue that ATSI people are among the lowest users of internet services and those living in remote communities are the least likely to have used the internet. A survey conducted by Rennie et al, (2010) found that there were several problems with creating internet access to remote Indigenous communities in Australia. These problems include geographical isolation, economically disadvantaged communities and the cost of services, difficulty setting up services to remote Indigenous communities, lack of awareness, lack of skills, lack of technical support and lack of interest due to irrelevant cultural content websites for users. For many ATSI communities' access to a better telephone service is a higher priority than access to the internet and the push towards online learning may be just another step in excluding ATSI and in particular those living in remote locations (Rennie, et al., 2010; Anthony & Keating; http://eprints.batchelor.edu.au/378/2/anthony_keating164.html). This push may very well be widening the gap as opposed to closing it. Learning how to use computers and becoming proficient with the language of technology and the tasks associated with such technology further

disadvantages ATSI people. The services provided by ORAC reflect outsiders' needs and ideas about how things should be done. This paternalistic 'government knows best' approach, plus increased surveillance and increased monitoring, results in an increase in distrust and an increase in social exclusion.

Even though the services provided by ORAC have been couched as enabling, the strategies and services they provide seldom work and should be abandoned as they have not served Aboriginal people well. ORAC has focused solely on their accountability role at the expense of their support role. The services provided by ORAC tend to be more about what ORAC will do in terms of making ATSI corporations accountable. It is now abundantly clear that this approach has little or no impact and practically no sustainability because the strategy appears to punish rather than empower ATSI people and is exclusive rather than inclusive and participatory. One could assume that if there was an investment in the education of ATSI people to acquire the necessary knowledge to be able to fulfil their roles and responsibilities under the Act, the level of non-compliance would be less than it currently is. In this instance, it is conceivable that the values that guide and inform the work of ORAC have been disregarded at the expense of ensuring accountability and transparency. This is not to say that compliance and regulation is not important, on the contrary, it is an essential aspect of maintaining good corporate governance practices. An approach based on partnership and mutual respect, shared meaning, shared knowledge and experience which seeks to facilitate Indigenous participation on an equal basis is needed to begin to remedy the current situation in which Aboriginal organisations are deemed to be non-compliant and dysfunctional.

Despite the intentions to create a simple incorporation statute that would benefit ATSI people, the ACA Act has not benefitted ATSI people as intended as the notion of incorporation is itself foreign to Indigenous culture (Nehme & Juriansz, 2012). Sansom (1985) argues that the mandatory requirement for an Indigenous organisation to be recognised by the state as a legal entity constitutes a form of cultural coercion. Rowse (1992) refers to this as a paradox, since the concept of Indigenous corporations aims to empower ATSI people by imposing Western notions upon them. The introduction of western democratic concepts, structures and institutions together with the injection of settler state resources dictate how and what services are delivered. These factors influence what is talked about and how it is talked about and as such create assumptions and rationales that authorise some policy solutions and not others. What was framed as self-determination and what began as a notion to set up legislation which would allow ATSI people to

set up organisations based on cultural traditions and customs, did not eventuate into reality. The more self-determining ATSI groups became the more law was involved in the management of their affairs (McHugh, 2004, p. 1). ORAC is like any other institution or bureaucracy, in that, there is a hierarchy of authority in place that is guided by statutory rules and regulations which direct and influence the administration of ORAC. In a social or organisational context, hierarchy refers to unequally structured power relations. Karlberg (2005) argues that, within competitive or adversarial power relationships, hierarchy does lead to oppression, exploitation and other undesirable outcomes. Wodak (1995) maintains that rigid internal organisations such as the hierarchy of positions and the ritualization of procedures collide ineluctably with structures designed to promote empowerment. When these practices collide, it is ATSI people and communities that suffer and not government. What began as a notion to set up legislation which would allow ATSI people and communities to set up organisations based on cultural traditions and customs did not eventuate into reality but instead became an instrument of control whereby government through settler colonial ideologies continue to regulate ATSI people and communities. This coupled against a backdrop of public policy which identified ATSI people as problems and commentary on 'dysfunction' and social collapse in remote Aboriginal communities dictated the relations between Aboriginal groups, communities and government and has impacted on the way in which government represent and construct ATSI people.

The enactment of the ACA Act and the subsequent establishment of ORAC led to the incorporation of hundreds of Aboriginal communities and Aboriginal organisations. Many of these communities came about as a result of government enforced legislation and policies. This has impacted on the way in which government view and talk about ATSI communities. The following section concerns itself with the construction of the use of the term Aboriginal community in a postcolonial context. I identify the tensions that exist between dominant Western views by providing a different lens and understanding to the Western ideologies of an Aboriginal community. What follows is a detailed discussion on the use of the term community.

4.3 ABORIGINAL COMMUNITY

Before, during and after colonisation ATSI people identified themselves by their country such as Waluwarra, Kalkaloon, Darug, Eora and so on. ATSI people also refer to each other by their state boundary and or by their nation name. For example, Aboriginal people from across Australia may associate themselves as being: New South Wales -Koori/Goorie/Koorie/Murri;

Victoria – Koorie; South Australians - Nunga/Nyungar/Nyoongah; Western Australians Nyungar/Nyoongar; Northern Territory - Yolngu (top end) and Anangu (central); Queensland - Murri or Torres Strait Islander and Tasmania - Palawa/Koori (NSW Department of Community Services, 2009).

ATSI people live in various types of communities with at least two-thirds of all Aboriginal people pastoral leases. Altman (2005) maintains that there are some fundamental differences within these communities to other Australian communities in that about 26 per cent of the total Indigenous populations of 460,000 are living in 1,200 discrete communities in remote regions. These communities are in sparsely populated regions of Australia that are extremely distant, both geographically and culturally from markets. They are located on the estimated 20 per cent of Australia that is owned by Indigenous people (Altman & Pollack, 2001). Within Queensland there are more than 40 discrete communities. Most of the discrete communities in Queensland are former missions established on land gazette as reserves. The larger discrete 'Aboriginal' communities are predominantly Aboriginal, while homelands or outstations have populations that are almost always Aboriginal only (Altman & Hinkson, 2010). Their forms of land ownership are different: land is inalienable and held under various common property systems and these regions were colonised relatively late, with some parts of Arnhem Land and central Australia as recent as the last 50 years. This has meant that customary (kin-based) systems and practices are robust and there is ongoing contestation between western (mainstream Australian and customary (Indigenous) worldviews (Altman & Hinkson, 2010).

The ICGP define 'community' as a network of people and organisations linked together by a web of personal relationships and networks, cultural and political connections and identities, networks of support, traditions and institutions, shared socioeconomic conditions, or common understandings and interests' (Hunt & Smith, 2006, p. 5). Aboriginal people Most ATSI communities are complex mixes of residents with different cultural and historical ties and different, sometimes overlapping, rights and interests (Hunt, 2013). These can include discrete geographic locations or dispersed communities of identity or interests. Discrete Indigenous communities as they are commonly referred has been described as (i) the Aboriginal inhabitants of a town predominantly Indigenous (ii) a township or village inhabited mostly by Aboriginal people, governed by their own council.

While there are often different communities of identity and interest within a geographic location, there are also dispersed 'communities of identity' in urban and regional areas, as extended kinship networks stretch across long distances to connect to suburbs in major cities (Yamanouchi,

2010). Communities are deeply implicated historically and politically and occur within complex, contested and heterogeneous terrains (Lavia & Moore, 2009). Aboriginal communities as they are commonly known differ in some respects to mainstream communities, in that the majority of Aboriginal communities have emerged as a direct consequence of colonisation, dispersal and dispossession and more recently exist and have been maintained for bureaucratic convenience whereby identified communities are perceived as mere recipients of aid and expertise (Dudgeon et al 2002). Represented in this way, ideas about community are usually framed within binaries of donor- recipient (Lavia & Moore, 2009).

Aboriginal people, continue to legally occupy their lands under a variety of non-Aboriginal statutes, each of which confers different rights and responsibilities and which ineluctably bound them to the Australian State (Sullivan, 2010). These communities can be small or large and can be found in the most remote parts of our country or within the larger metropolitan towns and cities. The following section highlights Indigenous communities in Central Australia, as this study was primarily concerned with communities and organisations located in the Northern Territory:

- traditional owners and native title claimants of the land on, or near which a settlement has been built;
- people married to traditional owners;
- other Indigenous groups who have no land ownership ties but strong historical and residential attachment to the place;
- returning 'diaspora' people who form part of the 'Stolen Generation'; and
- non-Indigenous residents some of whom may have married into Indigenous (Hunt, 2013).

In some locations, where people have historically been relocated, the mix of people is extremely complex with multiple communities of identity present (Hunt, 2013). Different families, clans, nations, language and ceremonial groups live within most geographically discrete Indigenous communities. Some of these groups have a historical attachment to the place; others have custodial land rights in that location (Sullivan 2007; Hunt & Smith, 2006). These groups have different, sometimes overlapping, rights and interests and both diverse and shared needs. Many of these communities are highly mobile, with many coming and leaving communities for extended periods due to cultural reasons. High rates of mobility among some groups also change the balance in community composition, creating enduring regional networks of linked

communities which can have an effect on the governance arrangements of local and regional organisations (Hunt & Smith, 2006; 2007; Hunt et al., 2008). Moreton-Robinson (2017) maintains that the effects of removal and dislocation have resulted in different constructions of subjectivity that link people to place in multiple ways. These subjectivities are tied to our ontological relationship to the land and serve to ground our political as well as our cultural identities. She further argues that, the ontological relationship occurs through the inter-substantiation of ancestral beings, humans and land. As descendants and reincarnation of these ancestral beings, Indigenous people derive their sense of belonging to the country through and from them. The governance of these communities are multidimensional, in that there are a multiplicity of actors, there are different levels of government and participation in policies, with different functions and various modalities of relations between levels of government and actors. It is not at all rare to see cases where responsibility, roles and functions overlap and clash internally at the various levels.

Even though many of the communities are well established, they did not start out that way. Many of these communities particularly in remote parts of Australia have evolved as a direct consequence of colonisation. Some communities were established as missions and missionaries managed the people and the community. For example, Aboriginal communities in Central Australia, such as Imanpa, was excised as part of the Land Rights movements where land was excised for the provision of land for Aboriginal people whom may have traditional and historical links to the country. Mutitjulu was established on Aboriginal land. Kaltukatjara (Docker River) was established to relieve pressure on the Warburton settlement and provide an opportunity for the Aboriginal people in the area to live closer to their homelands. The traditional owner groups living in these 3 communities identify themselves as Pitjantjara people. They live on these communities and maintain sacred sites and carry out traditional ceremony and business. Even though the communities were established for different reasons, the communities are no different to any other Indigenous community in that the different communities are compositionally complex and are made up of numerous extended family groups with family histories and relationships that link them to different resettlement phases, different cultural identities, and different regional communities.

The majority of communities in Central Australia are located in arid or semi-arid environment as the majority of the land is desert, as a consequence, Aboriginal people face relatively greater challenges in influencing institutions at the national scale (Davies & Holcombe, 2009). These communities have been classified by the Australian Bureau of Statistics (ABS) as remote to very

remote because they tend to have very restricted access to goods and services and opportunities for social interactions. Funding and regulatory decisions made by governments have a significant impact on economic livelihoods and low population densities and mobile populations combined with great distances create deficits in how services are administered. Local economies perform poorly and investments are limited (Moran et al, 2014). Davies & Holcombe (2009) argue that a lack of attention to the social and environmental characteristics of remote desert regions by institutions at the national level is almost certainly a factor in poor socio-economic outcomes of people living within these regions.

These communities are highly reliant on government services. Alice Springs is the administration and service base of most of the Aboriginal outstations and communities within Central Australia. These communities are isolated from major population centres and are separated from each other by considerable distances and are mostly a day's drive or more from the nearest towns. It can take up to two hours to drive 35 km on bush tracks to visit an outstation and access to telecommunications is seriously limited (Walsh & Mitchell, 2002). Limited infrastructure exists within these communities; these generally include school, health clinic and essential services. Police and substantial medical services are usually a significant distant away (Walsh & Mitchell, 2002, NT Law Reform Committee 2003, Central Land Council 2005). Most Aboriginal communities have a restricted economic base and are characterised as having extremely low social and economic indicators. The main sources of employment are the service providers.

4.3.1 PROBLEMATISING THE DISCOURSE OF ABORIGINAL COMMUNITY

The establishment of the Department of Aboriginal Affairs in the mid-1970s and the enactment of the *Aboriginal Councils and Associations Act* in 1976 was the medium used by the government to distribute funds for welfare programs and the delivery of services to Aboriginal people (Peters-Little, 2000). The need to receive funding and programs resulted in the use of the word 'community' being widely accepted by the government without a clear articulation of its meanings and obligations. So much so that government policies and funding frameworks refer to engagement with 'community'. Armstrong (2007) maintains that the overly simplistic view of 'community' is so entrenched within government policy, programs and funding frameworks that it is equated with the expectation that there should be a collective, community-wide basis to service delivery and the distribution of any benefits flowing from government funding. The normalisation and the use of the term community by the government have been loaded with

unrealistic expectations and contradictory assumptions and have often received mixed reactions, as the term does not reflect the history and the makeup of the community nor the diversity within the community (Armstrong, 2007; Hunt & Smith, 2006). It is necessary to understand these origins in order to understand how government discourse and frames conflict with and compete with the history of settlement. We need to look beyond the western definitions of community, and factor in the history and the diversity of Aboriginal communities when developing policy guidelines and funding frameworks.

According to Hunt and Smith (2009), the use of the term 'community' has flowed through to expectations about the governance of organisations which have been tagged by governments as being 'community organisations'. Governments tend to look to these organisations to speak for and make decisions on behalf of the 'community'. These 'community organisations are subject to idealistic expectations that they will have 'community representation', 'legitimacy', 'community participation', engage in 'community consultations' and so on. Armstrong (2007) argues that governments have promoted the community as a benchmark for fair representation, equitable distribution of resources and benefits, proper consultation, the source of legitimacy, and the rightful recipient of 'downwards' accountability.

The term 'community' invokes an idealised notion of unity or purpose and action and can suggest a communal interest, a common need or activity or a shared identity as well as a sense of social and political unity among a group of people located together (Peters- Little, 2000; Philpot, 2006). Hunt & Smith (2006) argues that the majority of Indigenous communities, whether they are discrete settlements or dispersed communities of interest or identity are complex mixes of residents with different cultural and historical ties. Peters-Little (2000) makes the claim that the origin and establishment of Aboriginal communities make such notions very difficult to envision. To make this assumption is to ignore the history of settlement and the diversity and complexities of groupings within these communities (Philpot, 2006). Bennett (1999) maintains that the rhetoric of 'communities' has ignored Aboriginal social organisation and the imposition of the term is at the expense of Aboriginal people and groups and is purely for non-Aboriginal administrative convenience.

Instead, these communities have emerged through the process of colonisation and dislocation which have led to the forced relocation of many tribes and clan groups and different language and family groups onto missions and reserves often in areas in which they have no traditional or

cultural connections (Philpot, 2006). The discourse of 'community' has created intergenerational factionalism within many Indigenous communities and groups (Tatz, 2011). This brings into question the role of government and the part they have played in the creation of an environment that breeds factionalism and or lateral violence (Social Justice Commissioner, 2011). The 2011 Social Justice report makes the claim that one of the greatest sources of tensions and conflict within an Indigenous community is the ongoing issue of lateral violence, which has its roots in colonialism, oppression and control of ATSI people. The 2011 Aboriginal and Torres Strait Islander Social Justice report argues that, even though lateral violence has its roots in history, it thrives today because of the power imbalances within communities, groups and organisations. Issues around identity and who speaks for community, and to whom governments choose to liaise with, can fuel conflict and lateral violence. The report further argues that this can lead to alienation and alienation breeds powerlessness. Whilst government continues to disregard the history of settlement and its impact on Aboriginal families and groups, lateral violence will continue to impact on organisations and communities and will continue to be a human rights issue (Aboriginal and Torres Strait Islander Social Justice and Native Title Report – A community Guide, 2011).

It should be noted that even though there appears to be a lot of politics and factionalism within Indigenous communities, the politics within these communities at the local level are no different from the politics at the state and national levels in that resources and services are distributed to those who support those in power. The level of dysfunction within ATSI communities is more a comment on the Australian government's management of Aboriginal communities and Aboriginal people than it is about the culture of dysfunction. Whilst there are many examples of community conflict and factions ATSI communities, there are many positive examples of communities and their organisations working together to achieve positive and sustainable outcomes. This has recently been recognised through the national recognition of good governance, which is supported by Reconciliation Australia in partnership with BHP Billiton. The national awards highlight success in Indigenous Australia, strong leadership, good management, effective partnerships and brave, creative thinking (Reconciliation Australia, 2011).

The enactment of the ACA Act and the establishment of the Department of Aboriginal Affairs during the 'self-determination' era resulted in the incorporation of hundreds of ATSI organisations set up to deliver government funded programs and services. This resulted in the creation of an 'Indigenous sector' a distinct not-for-profit sector recognising that Indigenous organisations provide more than functional service delivery (Rowse, 2002). What follows is a

detailed discussion of the diverse and complex context in which Aboriginal organisations have evolved and continue to operate within.

4.4 ABORIGINAL ORGANISATIONS

The Indigenous sector is made up of community-run organisations. These organisations evolved during the era of self-determination. The 1970s policy era of 'self-determination' virtually changed the status of Aboriginal people from being wards of the state to being 'boss' of their settlements, with very few resources allocated to training or any form of preparation (Holcombe & Sullivan, 2013). All facets of existence in remote communities are affected by at least one and often many Indigenous not-for-profit organisations (Holcombe & Sullivan, 2013). These corporations carried the weight of the state's expectations that it could fund self-determining Aboriginal people to deliver development (Batty, 2005). During this time, it was argued that some delivery functions were best administered through publicly funded Indigenous organisations in ways that government seemingly could not (Rowse, 2012, p. 102 – 103). To outsiders, these organisations are often the most visible expressions of governance in communities (Hunt, 2013). Today there are many different types of ATSI organisations incorporated under Federal, state and territory legislation. Others, such as Aboriginal Land Councils are created under statute (Page, 2015).

According to Holcombe and Sullivan (2013), the majority of these organisations is largely dependent on government funding and is not commercial in their objective. Many of these organisations began in people's backyards or lounge rooms and for many communities, they are the only means of engagement between mainstream Australia and ATSI people (Sullivan, 2010). These organisations go beyond their service function and are the primary means for most Indigenous people to make themselves visible as citizens with the polity of which they form a small minority (Rowse, 2012). These organisations not only exist in the larger towns and cities they can be found in some of the most remote communities within Australia. These organisations provide services in a wide range of domains, including the delivery of essential and social services, such as, health care and public housing on behalf of both state and federal governments; which are normally delivered to the mainstream population by the government or through government-sponsored private enterprises (Page, 2015).

Page (2015) argues that Aboriginal organisations are unique in that, they are not a formal part of the state apparatus, despite a majority of the organisations being supported by government

funding and operating within State and Commonwealth legislative frameworks. These organisations deliver a range of services normally provided by government agencies in other circumstances and are also a means to push for political and civil rights (Page, 2015; Rowse, 2012; Sullivan, 2010). Holcombe and Sullivan (2010) maintain that these organisations also act as the key relationship between mainstream, non-Indigenous Australian governmental institutions and Indigenous citizens. Martin (2003) makes the point that Aboriginal organisations are distinct in that they are manifestations of continued attempts to negotiate and transform the power relations between the settler-colonial state and Indigenous people. Page (2015) argues that these processes produce pervasive power imbalances between Indigenous people and settlers both institutionally and day-to-day in the present (p. 1).

There are some 2700 organisations incorporated under ACA Act 1976. Within these organisations there is considerable diversity and the majority of the organisations incorporated under the Act are largely established on the model of a voluntary association where a membership elects a governing council to administer benefits for members and wider constituents (Sullivan, 2010, p.2). Sullivan (2010) makes the point, that the Indigenous sector's emphasis on self-empowerment and the importance of the advocacy and community development functions of Indigenous sector organisations is a point of difference from the mainstream. The sector includes and covers a wide range of services and activities including:

Community-controlled Aboriginal Health Services;

Aboriginal Legal Services;

Multi-purpose 'resource agencies' and outreach services targeting dispossessed town fringe groups and homeland communities;

Arts and media centres, radio and television broadcasting stations, musicians' cooperatives and dance companies;

Community-controlled schools and education advisory or lobby groups;

Land councils, sometimes as statutory bodies, in other cases as voluntary advocacy organisations;

Community councils, holding and administering Aboriginal land, providing municipal-type services;

Language research and maintenance centres; Sports associations;

Environmental 'caring for country' collectives, such as ranger programs; communally owned pastoral and farm industry organisations; and

Housing cooperatives and tenancy management organisations (Holcombe & Sullivan, 2013, p. 9).

These organisations form a considerable majority of the remote area population with the vast majority of associations incorporated under the ACA Act located in remote to very remote locations. The AIATSIS maintains that in the Northern Territory alone there were 632 registered organisations incorporated under the Aboriginal Councils and Associations Act. Of the 632 organisations, 415 of these organisations are functioning in very remote locations and 142 of these organisations are functioning in remote locations (ORAC, 2005/06). The remainder of these organisations are located in the larger towns and cities across the Northern Territory. In some of the more remote communities, in the Northern Territory, land vested in the Aboriginal Land Trust are managed by Aboriginal Community Councils who have become the main provider of government funded services and perform a range of legal functions on behalf of their residents.

According to Moran, et al (2014) the economic landscape of remote Indigenous Australia is peculiar in that public-finance constitutes the backbone of the economy in these regions. The majority of organisations operating within remote Indigenous communities are dependent on and have been set up to receive Commonwealth and Territory funding to provide government type services to these communities. Australian-wide, the Commonwealth's total expenditure on its Indigenous-specific programs was estimated to be \$3.5 billion in 2009, of which \$3.3 billion was administered by former departments: including the Department of Families, Community Services and Indigenous Affairs (DoFaHCSIA), the Department of Employment and Workplace Relations (DEEWR) and the Department of Health and Ageing (DoHA) (ANAO, 2012a). The incorporation of social groups into organisations to attract funding for essential services and to contract for the delivery of government programs has contributed to a legacy of institutional dependency whereby ATSI corporations have become dependent on government funding. So much, so that these organisations have largely been defined and controlled by government priorities and decision-making processes, over which Indigenous Australians have little or no say. This gives the funding body a disproportionate degree of influence over what is delivered and how. When the funding does not always match the priorities and visions of a community or

organisation, this puts communities and organisations in a situation whereby they exist only to support government policy and initiatives and not for their own goals and priorities (Jorgenson, 2007). Further to this, where the priority has been determined externally, the diversity of communities, their circumstances and capacities have not been considered. The expectations, assumptions and beliefs impact on the relations between government and ATSI people. This has caused considerable tensions between the relationships between government and Indigenous Australians.

Vivian (2012) posits that one specific area in which governments undermine Indigenous governance is through current funding models and reporting requirements. Even though ATSI corporations are seen as a critical instrument for self-determination, public management reforms have tended to treat devolution to Indigenous organisations as high risk, especially in remote areas. This has led to an increase in the use of short-term grants that are often accompanied by onerous reporting requirements and accountability (Moran, Porter, Curth-Bibb, 2014). During the past 3 decades, funding to Indigenous organisations during the past 3 decades have become fragmented and unstable leading to duplication and administrative burden driven by compliance and disciplinary measures (Moran, et al, 2012; ANAO, 2012, p. 82; Dwyer et al., 2009, p. 28). Moran et al (2014) argued that the impact of this on remote Indigenous Australia manifests in 6 distinct but related ways:

the new and imposed public management reforms have led to an increase in the number of small-scale, limited duration and narrowly targeted grants, with the average duration of grants being 15 months.

the fragmentation of relatively small, short-term grants has been exacerbated by rapid changes in the policy environment and program requirements. Moran et al (2014) argue that outcomes on the ground cannot be measured effectively, as programs and funding are often not given sufficient time to be embedded before they are changed and in some cases; they are only partially implemented or superseded with new programs and priorities.

ATSI corporations have often been subject to unsustainable administrative requirements and burdens fiscal fragmentation and notions of accountability which have fueled by grants that are often small and short-term in nature. This approach perpetuates a sense of funding insecurity, often resulting in organisations committing

significant human resources to playing the 'funding game'.

fragmented service delivery, duplication and gaps between Commonwealth, and States, as well as excessively bureaucratic processes and administrative arrangements, have resulted in poor coordination implementation and inefficiencies. The multitude of separate disconnected programs runs contrary to the need for flexibility of service delivery, most obviously in remote locations, and creates a surfeit of unnecessary red tape.

declining autonomy, capability and political accountability have made it difficult over the years for communities to control and set priorities for the overall funding coming into communities, as the funding is derived from too many sources and tied to predetermined priorities that may not necessarily reflect the community's requirements. This stands in contrast to the policies of competitive tendering and private sector contracting tendering processes, along with the influx of non-Indigenous NGOs and private sector agencies into remote settlements, have contributed to the challenges experienced in Indigenous governance. The competition for limited government funding has undermined the fiscal sustainability of Indigenous organisations.

the positioning of Indigenous organisations as being high risk have resulted in tightening controls and imposing disciplinary and surveillance requirements; which have resulted in shorter funding cycles, narrow output and deliverables, and reducing the amount of each grant (Moran et al, 2014).

In short, many of the features as identified by Moran et al reflect that of the 'standard approach' to governance which has contributed to a discourse of 'failure' and or dysfunction. Cornell & Kalt (2007) argue that the 'standard approach' to governance is cyclical and destructive in that: (1) decision making is short term and nonstrategic and organisations' tend to be reactive instead of being self-determining and strategic. There is no time for strategic thinking as people do not necessarily have the knowledge and the skills to be able to access and make informed decisions about funding and or legislative requirements; (2) persons or organisations other than the Native nation set the development agenda through short-term funding cycles; (3) development is treated as primarily an economic problem; (4) Indigenous culture is viewed as an obstacle to development and (5) elected leadership serves primarily as a distribution of resources (Cornell & Kalt, cited in Jorgensen, 2007, p. 7 & 8). In spite of the complexity of these issues, there are many

examples of successful ATSI organisations providing culturally appropriate services to ATSI people. Organisations such as the National Aboriginal Community Controlled Health Organisation (NACCHO) which was established in 1971, continues to provide an essential health and welfare service to ATSI people through its network of over 40 Aboriginal medical services across Australia in spite of the many challenges they have faced and have overcome since its inception.

4.5 CONCLUSION

This study probes and explores the way in which the ORAC represents and positions ATSI people. In order to build reliable and valid information, it is important to understand the context in which ORAC evolved so as to understand the discourses examined in later chapters. This requires an in-depth knowledge of the historical and political context in which ORAC was established, its role and its relationship to ATSI communities and organisations, particularly, in regards to the level of responsibility that ORAC have in relation to supporting ATSI governance during the last three decades. An appreciation of the dynamics and the impact of the ideologies during this period provide the context for understanding the values that have shaped and influenced the way in which ORAC represent and position ATSI people and communities.

CHAPTER 5 - ANALYSING THE DATA

INTRODUCTION

In the previous chapter, I described both the historical and political context in which ORAC was established and I discussed in detailed the concept of Aboriginal communities and Aboriginal organisations as this provides the context for the analysis of the governance discourses evident within the ORAC annual reports. This chapter then focuses specially on the texts contained within the ORAC annual reports. This chapter will move from a description of the “general” structure of the 2005/2006 yearbook to the ‘specific’ excerpts that illustrate the aforementioned discourses of governance. I highlight discourses of governance embedded within the ORAC reports by problematising familiar or “taken for granted” discourse and understandings within the text. This format is ultimately designed to answer the research question: how does the ORAC represent and position ATSI people? The analysis places particular focus on the use of declarative statements and classifications, the use of euphemistic expressions and the use of expressive modality to sustain and maintain dominant ideologies.

As detailed in chapter 4, the ACA Act was seen as a significant vehicle for the incorporation of a broad range of ATSI corporations. It was envisaged as an incorporation statute that would provide a simple and flexible means for incorporating associations of Indigenous peoples and was reserved for the use of Indigenous people. The recognition of ‘native title’ and changes to the political environment during this time resulted in a number of reviews which resulted in the Act being repealed. The reviews found that the Act was inconsistent with modern corporation’s law in Australia and disadvantaged Indigenous people in that it did not offer protection for members. This resulted in changes to the statutory powers of the Registrar and the role of ORAC. The year 2005/2006 is a significant period in the history of Aboriginal corporations in that this is the last year in which ORAC administered the ACA Act; and the ideals that incorporation would be ‘simple and flexible’ changed dramatically. More importantly though it enables a contextualised understanding of the social relations producing the conditions in which Indigenous governance is viewed and talked about.

What follows is a descriptive analysis of the ORAC annual report/ yearbook.

5.1 THE ANNUAL REPORT

McQueen (2001) maintain that despite the dramatic changes which have occurred in recent years

in both the perception of the role and the content of annual reports very little detailed study has been undertaken of the possible effects of these changes, particularly in Australia. The annual report serves two communicative purposes that are potentially in conflict. Originally designed to communicate particular information to justify funding and expenditure the annual report is now generally perceived being used as a public relations vehicle and a vehicle to explain (and excuse) any contentious aspects of corporate performance which have attracted public attention and/or criticism (McQueen, 2001). Further to this the annual report has been used as a promotional tool to build relationships and to bring about change through the management of perceptions by appealing to the emotions of the reader (McQueen, 2001). The annual report genre is shaped by and shapes the specific communicative context in which it is used. The focus of its purposes has shifted, its audience has extended and consequently, its content and form have changed (Rutherford, 2005). The reports then reflect and support the goals and purposes of both the author and the audience and are a representation of the values and perspectives of both the author and the audience. McGregor (2003) contends that when the rules for how to structure the genre, belong to the institution that owns the genre, the genre becomes a means through which the institution extends power. In this case, the genre employs language biased toward the positive; language which favours ORAC and ATSI voices and perspectives are excluded and not represented.

What is also noteworthy is that, even though ORAC is not required to produce an annual report, they publish an annual report in addition to contributing to the Department of Families, Community Services and Indigenous Affairs (FaCSIA) annual report. Disclosures as such are used to implement legitimisation strategies which may be either substantive or symbolic. Symbolic strategies are management techniques that merely portray corporate behaviour that is, in appearance, consistent with societal expectations (Davison & Warren, 2006). The ORAC reports are incremental and intertextual in that it contributes to and builds on previous government policies and agendas. Excerpt:

This yearbook complements ORAC's contribution to the FaCSIA Annual Report 2005–2006 by providing more comprehensive analysis of key information and issues, and more explanation of the thinking behind our work. It also explains how we fit into the FaCSIA portfolio, as well as outlining our other key relationships. Our performance is explained, in incorporation support, regulation, training and legislative reform (ORAC, 2005/2006, p. 1).

The ORAC yearly report – as sanctioned by statute - plays an important role in terms of

reporting on the annual performance of the Department (McQueen, 2011). It has become more and more regulated as a document, culminating in the mandatory provisions pursuant to subsection 63(2) and 70(2) of the Public Service Act 1999 which defines the core requirements as to the form and content of the report. The annual report is an important element in the genre of corporate public discourse. The reporting practices mandated by the Public Service Act 1999 are intended to render the annual report as a legitimate and trustworthy medium through which management communicates information related to the financial performance of the Department (Yuthas, Rogers & Dillard, 2002, McQueen, 2001). Whilst there is a statutory requirement to include the core set of information, the ORAC reports do much more than what is prescribed by the legislation. The annual report is considered a highly specialised text created by and for insiders and is easily recognised as a specific genre that has been recognised over time to repeatedly fulfil particular communicative purposes within a given community of senders and receivers (Bhatia, 1993). Swales (1990) argue that a genre, in this view:

comprises a class of communicative events, the members of which share some set of communicative purposes. These purposes are recognised by the expert members of the parent discourse community, and thereby constitute the rationale for the genre. This rationale shapes the schematic structure of the discourse and influences and constrains the choice of content and style (Swales, 1990, p.58).

The ORAC yearbook is 106 pages long and divided into 4 separate sections. Section 1 includes 2 pages dedicated to the performance of ORAC in the 05-06 financial years. It highlights the number of corporations registered under the ACA Act and makes note of the reduction of corporations. It also highlights the number of information and training sessions, the number of examinations and healthy organisations checks; the level of compliance with reporting requirements; and includes information on the newly enacted Corporations (Aboriginal and Torres Strait Islander) Act 2006 and the placement of the Registrar of Aboriginal Corporations from the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) to the Department of Families, Community Services and Indigenous Affairs (FaCSIA). The sections of the report are visually eye-catching, are printed in a block of text and are printed in colours generally associated with ATSI people and culture.

This is followed by a page outlining copyright and an important message advising that the publication may contain the names and images of deceased people. In many ATSI communities,

the reproduction of a deceased person's name is offensive to cultural beliefs (Janke, 2002). The use of cultural protocols as such can be seen as a sign of respect and it can also be viewed as public relations tool in which to build credibility and legitimacy for the work of ORAC. Oxfam Australia (2007) argue that the introduction of cultural protocols represents an important step towards understanding, respecting and representing Indigenous world-views, encouraging culturally appropriate working practices and valuing the cultural diversity that enriches, motivates and drives Australia forward. Cultural protocols are ethical principles which guide behaviour in a particular situation and are designed to pave the way for improving working relationships between Australians and ATSI partners and consequently achieving better program outcomes. Terri Janke (2005) makes the point that 'agreeing to comply with the accepted protocols of other cultural groups promotes interaction based on good faith and mutual respect, thus encouraging ethical conduct. Oxfam Australia (2007) argue that improved outcomes for ATSI people will only be achieved when effective and respectful partnerships are established with ATSI people, their communities and their organisations. The use of cultural markers as such and acknowledgement of cultural protocols is an effective tool for marketing and legitimising the role of the ORAC has an expert in dealing with ATSI peoples, communities and their organisations due to their cultural awareness and sensitivity to the traditions of ATSI people.

This is followed by 6 pages devoted to the Registrar. It highlights the Year in Review, and includes a personalised narration from the Registrar and a letter from the Governor General giving Royal Assent to the newly enacted CATSI Act and other related Acts. The Registrars year in review begins with a black and white photo of the Registrar against a green, yellow and light blue background. The Registrar is smiling and appears to be happy. On page 1, in her foreword statement which she highlights in green bold writing, she states that:

Welcome to the Office of the Registrar of Aboriginal Corporation's yearbook for 2005-2006. In it we highlight the successes that we and our client corporations have achieved, as well as the thoughtful and often difficult work that underpins those achievements' (ORAC, 2005/2005, p. 1).

In order to provide the context for the report, she reinforces the statutory position of the Registrar and reports on the number of departmental staff at 30 June 2006 and the services provided by ORAC, which include incorporation, regulation and related services to Indigenous people in accordance with the ACA Act. She follows this up with a statement that seeks to legitimise the role of ORAC by stating that ORAC performs its work in a way that takes account of

the special needs, requirements and risks of Indigenous corporations by aligning the work of ORAC to the racial power of the Australian Constitution and the Racial Discrimination Act 1975 and Australian and international best practice on sound corporate governance. This is followed by a letter from the Governor General on page 5. The letter from the Governor General has been strategically designed to frame her/the Government as benevolent, professional, caring (i.e. the embodiment of a benevolent white society that aims to 'help' an implicitly deficient Aboriginal community, hence taking up an ethical position that is beyond critique). The 'benevolence' discourse positions the government as virtuous, respect and well-intentioned while delimiting its responsibility for action (Moore, 2012). A statement coming from a source endowed with authority, such as that of the Governor General, is likely to be more productive than one coming from a marginalised position (Rose, 2013).

The producers of the text have personalised the Registrar review, in doing so, the readers are being persuaded to believe in her character and intent as the Registrar. This approach is highly personal, bordering on the colloquial and becomes more conversational and of a very personal nature. In employing this strategy the producers of the text seeks to demonstrate that in spite of her position being hierarchically and highly institutionalised, ORAC is friendly; supportive; approachable and trustworthy. The reader is the focus of a range of attempts at impression management in which only the memorable 'facts' or 'message' the company wishes to portray may be presented and highlighted by visual and textual strategies (Preston et al, 1996). In doing so, ORAC, seek to convey the 'right message' about their work with ATSI corporations and communities. McQueen (2001) argues that the 'right message' might be one of austerity in times of poor performance. The personalised contribution seeks to influence the reader and to build credibility with the audience as without it the readers are less inclined to trust or accept the argument presented to them. The personal approach seeks to accentuate and soften the view of government as only being about compliance, monitoring and regulation. The presumption here is that, ORAC is a friend and ally of ATSI people and that the relationships with ATSI people and organisations are based on trust and respect. This implied close relationship between the Registrar, an agent of government and ATSI people is presented as a model for developing and maintaining positive relations between ATSI people and government. Arguably, this can be seen as an attempt by ORAC to smooth over the history of dispossession and colonisation (which goes unmentioned), which created a relationship of mistrust and deceit, particularly towards government departments whom have historically have sought only to regulate and control ATSI

people and whom have tended to make decisions not in the best interests of ATSI people.

Section two includes 17 pages of information about ORAC and the context in which ORAC operates. It includes a flowchart which includes information about the objectives of ORAC; how ORAC fit into the Families, Community Services and Indigenous Affairs portfolio Outcomes and how ORAC contributes to and reports to Outcome 6: Innovative whole-of-government policy on Indigenous Affairs and Outcome 1: Greater self-reliance and economic, social and community engagement for Indigenous Australians as prioritised by the Federal government. This is followed with information on the newly enacted CATSI Act; the powers of the Registrar; their clients; ORAC's corporate direction; ORAC's guiding principles and key roles; the CATSI Act, powers of the Registrar, their clients; their services; the public register; information on how to search corporations and their relationship with key agencies and organisations such as the Office of Indigenous Policy Coordination (OIPC); the Australian Securities and Investments Commission (ASIC); State/territory incorporation and regulation agencies; the Australian Taxation Office (ATO) and agencies linked to the Council of Australian Governments (COAG). This is followed by a colourful chart outlining ORAC's key relationships and ORAC's organisational structure. The government's objectives for the community are translated into specific agency objectives and performance indicators and services and services standards. The discursive coercion within these texts is written about and over the lives of the Indigenous Other. The intertextual nature of the ORAC reports aids the discursive power of the settler state. The ORAC reports build on recommendations from the priorities of the Federal government. The strategic goals and priorities within these documents and the discourses they create serve to reify the dominance of the settler state and maintain the oppression of the 'Other', specifically the ATSI other.

Section 3 includes 6 pages discussing ORAC's clients. Page 1 of section 3 the introductory section includes a black and white photograph of two Aboriginal women seated at a table working through some paperwork. The caption below the photograph identifies the two women as participants at the Introduction to Corporate Governance Workshop held in Canberra. The black and white photos are outlined in green and blue and white, which, symbolises the colours that Torres Strait Islander people associate with. By using colours that ATSI people connect to the producers of the text are appealing to the emotions ATSI people and are seeking to demonstrate that they are culturally sensitive and the reports are culturally appropriate. The colours green, blue, white and black are colours that ATSI people connect with as the colours are represented on the Torres Strait Islander flag. This is followed by an overview of Indigenous corporations

which include a profile on corporations incorporated with ORAC. As at 30 June 2006, 2529 corporations were registered under the ACA Act (ORAC, 2005/2006, p. 23). The majority of groups incorporated under the ACA Act are located in remote areas and are publicly funded. A number of different types of graphs have been used by ORAC throughout this section. The graphs have been used as a tool to highlight the number of registered and new corporations by years, 1988-89 to 2005-2006; the locality of organisations by remoteness and state/territory; location of corporations by Indigenous Coordination Centres (ICC) regions and a colourful map of location of corporations by ICC regions as at the 30 June 2016; this is followed by graphs highlighting the income of corporations; number of corporations by income and assets and a map of the location of biggest 100 corporations by income and assets. Even though the graphs have been used as a visual tool to profile and highlight the number and type of organisations incorporated under the ACA Act, there is no written explanation of the graphs, implying that the reader is equipped with such literacies, which by de facto excludes population groups and individuals for whom such decoding skills are not culturally normative. This section concludes with 2 tables highlighting the number of corporations by income and assets and a map of Australia identifying the location of the biggest 100 corporations by income. The graphs are accompanied by a black and white photo of Aboriginal women sitting on the ground with non-Indigenous staff and a couple of dogs. The captions state that it is a photo of participants taking a break during an information session. There is no supporting information or captions regarding the impact that isolation and remoteness can have on the corporate governance practices of ATSI organisations. The presumption here is that the reader fully understands the historical, political and social context in which the majority of ATSI corporations operate and function.

Section 4 includes 13 pages discussing the performance of ORAC. On page 40 of the 2005/2006 report, a black and white photo outlined in red and light brown colours of two elderly Aboriginal men sitting at a table reading documents has been used to introduce the topic of accountability (ORAC, 2005/2006, p. 13). The portrayal of human faces in the annual report can be seen as a symbol and a metaphor to try and connote a conjunction between ORAC and Aboriginal people. In doing so, ORAC has attempted to transmit an emphatic 'message' and to link the image to a particular corporate attribute, being ORAC doing everything they can to assist ATSI people. The use of narratives and photographs, both black and white and coloured photos are used as a tool to promote the work of ORAC and to reinforce the credibility and trustworthiness of ORAC. This is an example of a symbolic strategy for legitimation. Davison, (2010) makes the point that the use

of images facilitates the organisation in constructing their position and legitimisation in a 'culture-scape' by communicating with observers at both an emotional and intellectual level. Images may be used as peripheral cues for attitude formation; when there is an image you do not need an argument to construct a coherent story. Images impact attitudes in a distinct manner and can have a strong emotional and cognitive effect that influences how we feel and interpret an image. The incorporation of elderly Aboriginal men in their publications seeks to connect the role of ORAC to Aboriginal communities by incorporating the status of Aboriginal elders as leaders to connect with the modern world and Aboriginal culture.

In addition to the use of photographs, this section of the report briefly summarises the number of FOI applications and litigations, which according to ORAC have been resolved or discontinued. It does not include any details of the matters and potentially leaves the reader wondering whether or not any FOI applications and litigations were investigated. This is followed by a very brief outline of the corporate publications and where these can be accessed through the web. A section on accessibility and responsiveness and information on the ORAC hotline is outlined which is accompanied by a black and white photo of an ORAC staff member responding to calls on the hotline; it also includes information on the ORAC website. It concludes with a paragraph on the complaints about ORAC staff and contractors which they state was dismissed. This is followed by 4 pages dedicated to highlighting the compliance training support for regulation and incorporation training programs and their assistance program for corporations. ORAC maintain that:

An essential part of ORAC's incorporation work is providing information and assistance to groups before they incorporate, and once they have incorporated. ORAC also helps corporations to manage disputes, although it does not act as a mediator (ORAC, 2005/2006, p. 37).

This statement may be construed as misleading and sends mixed messages as the statement suggests that if ORAC are doing everything they can by providing training and information then the problem for non-compliance rests with ATSI people and not ORAC. According to ORAC as at the 31st June 2006, only 46% of corporations provided the three key reports required (audit report, balance sheet and income and expenditure). ORAC maintains this has been the highest compliance result to date (p. 41). The information provided by ORAC is misleading in that they do not discuss the impact that the training has had on the levels of compliance and the information

appears to be used only as a tool to demonstrate again that they are doing everything they can to help ATSI people by providing both accredited and non-accredited training and assistance. The message that this portrays is that ORAC should not be seen as an impediment to the success of ATSI corporations but instead be seen as empowering ATSI people. This study asserts that the focus on monitoring and regulation at the expense of supporting Indigenous corporate governance has been detrimental and has impacted greatly on the governance culture within ATSI corporations. This is not to say that compliance and regulation are not important on the contrary it is an essential aspect of corporate governance practices.

My experiences have been that corporations formed for particular projects often implicated people who would not otherwise have done so and who failed to understand the consequences or technical requirements of incorporation. These corporations have been formed under Western law with its technical compliance rules and program funding accountability (Hunt, 2013). I found that people voted onto boards did not necessarily have the knowledge and skills to be able to manage and juggle the legal and corporate governance aspects and financial management of an organisation. Knowledge of legislative and funding demands on Aboriginal community-controlled organisations particularly in remote Aboriginal communities require high levels of expertise and knowledge. More often than not, this level of expertise and knowledge does not exist within remote organisations and communities. The handing over of responsibility for government type services and services to a group of people with little or limited training in management and corporate governance practices sets these organisations up for failure and can lead to and create and sustain division and dysfunction in and amongst families, groups and the whole community. Lack of knowledge about the more formal corporate governance aspects of managing organisations can lead to weak governance or poor corporate governance practices and can lead to tensions and contradictions which can impact on the governance practices of an organisation and subsequently their relationship with government.

The remaining 8 pages highlight the number of “regulatory actions” which is accompanied by 3 different types of graphs highlighting the total number of corporations; total number of fully compliant corporations; total number of partially compliant corporations and the total number of non-complaint corporations and a Eurocentric map of Australia identifying the same. This level of detail works to establish or sustain the power of dominant discourse insofar as favouring modes of neoliberal accountability over and above ATSI lives and lived experiences. As such these documents act as a powerful persuader and have the potential to impact on and influence the

beliefs, habits and perceptions of its readers by advancing ideas about what kinds of information are valid and whose voices and worldviews ought to be heard.

This is followed by 15 attachments made up of tables; graphs and statistics; 22 pages in total and the remaining pages dedicated to information on the ACA Act and the CATSI Act. The attachments highlight the Registrar's regulatory powers under the ACA Act 1976; the incorporation and support services provided by ORAC; number of examinations; number of notices to rectify matters; number of show cause notices; corporations where new administrators were appointed; corporations with administrators continuing from previous years; liquidations in progress; liquidations finalised; deregistrations completed and a list of top 100 corporations with highest known income and assets. Column and bar graphs have been used extensively by ORAC. In this instance, the use of both statistics and graphs has been used as a tool to draw attention to the non-compliance of corporations. Statistics and graphs are an efficient way to communicate because they can make conclusions more striking while implying that an empirical Eurocentric worldview gives rise to quantifiable 'Truth' (Lather, 2004). The level of 'success' is measured by the extent to which Indigenous Australians conform to the non-Indigenous ideals of governance. Progress is measured by the extent of positive change, further insulating existing institutions and ideological structures (such as liberalism) from criticism (Pholi, 2009). The inclusion of statistics and graphs are designed to align the account offered in the narrative in order to explain, justify and rationalise the actions taken by ORAC and at the same time satisfy regulatory requirements as well as achieve credibility for the narrative with its readers. Excerpt:

Approximately 46 per cent of corporations (including about 95 per cent of large corporations) have provided the three key reports (audit report, balance sheet and income and expenditure) required under the ACA Act for 2004–05 or have been exempted due to their size. While this does not meet the target of 55 per cent, it is the highest compliance result ORAC has ever had. Compliance with reporting is set out in Figure 7 and Table 6 (ORAC, 2005/2006, p. 41).

Reducing Indigenous Australians to a collation of statistical indicators to convey what is wrong with Aboriginal people translates to the recognition by the dominant majority of what is known about Aboriginal people – both in terms of existence and authenticity (Nakata, 2006, pp. 265-268). Paradies (2006) further argues that 'this reductionism and essentialism of Indigenous identity then imparts a binary option offered to Indigenous people, to either succumb to the

deficit identity of Indigenous status or cease to authentically exist as an Indigenous person (p. 355). The fact that only 46% of all corporations incorporated under the Act have complied with their regulatory requirements sustains a system at odds with those it purports to support.

5.2 DISCOURSES OF GOVERNANCE

The ORAC reports contain within it a number of discourses and frames which reflect Western democratic ideologies of good governance. The Australian National Office of Audit (2006) contends that, public sector governance discourse is concerned with 'the set of responsibilities and practices, policies and procedures, exercised by an agency's executive, to provide strategic direction, ensure objectives are achieved, manage risks and use resources responsibly and with accountability. Good corporate governance is concerned with issues of management and administration, with regulations, the enforcement of rules, financial accountability, control and technical standards of measurement (Bauman, Smith, Quiggin, Keller, Drieburg, 2015). For example, the following statement features predominantly on page 1 of the 2005/2006 ORAC yearbook;

ORAC performs its work in a way that takes account of the special needs, requirements and risks of Indigenous corporations, consistent with the races power of the Australian Constitution and the *Racial Discrimination Act 1975*. It performs these functions within the context of Australian and international best practice on sound corporate governance (ORAC, 2005/2006, p. 1).

On the surface level, it appears that this statement ought to protect ATSI communities. However, the reference to performing its functions within the context of Australian and International best practices refers to the way in which government departments, such as, ORAC, uses its governance arrangements to contribute to its overall performance and the delivery of goods, services or programs and how an agency uses governance arrangements to ensure it meets the requirements of the law, regulations, published standards and community expectations of probity, accountability and openness (ANAO, 2003, p. 6). In Foucauldian terms, this positions ATSI peoples, as subjects of the text, at the centre of a complex 'ensemble' of providers, departments, authorities and personnel collectively informed by Western ideals of 'good' governance (Foucault, 1991, p. 102). The reference to the Australian and International best practices on sound corporate governance raises the question of what this means for ATSI people and the impact on ATSI people's rights to self- governance and nation building modes of governance.

The principles of sound corporate governance play an important role in shaping the culture of organisations. In turn, a company's culture shapes its corporate governance frameworks and practices. A key aspect of good governance is getting the culture right (Price, 2015). An organisation's culture is its set of shared values or assumptions. It can be described as the underlying mindset of the organisation. It guides how an entity and its staff think and behave, and shapes attitudes and behaviours (Price, 2015). Where this does not match, a mismatch can result in conflict and tensions which can undermine Indigenous initiatives. The rhetoric used throughout the ORAC annual reports serve simply as rhetoric. The use of such terminology is driven by the need for the creators of the text to be seen to be complying with both Australian and International standards and in some ways has been created to give the illusion that the work of ORAC meets these standards, when this may not necessarily be the case.

The assertion of ORAC as being one of the three regulatory systems set up under Commonwealth legislations to regulate governance of all corporations including ATSI corporations' serves only to reinforce the ideology of neoliberalism which views the state precisely as the epitome of power, as the regulator. In doing so, it seeks to create and preserve an institutional framework which reinforces the power of the state over ATSI communities and is aimed at restoring class power (Harvey, 2005).

ORAC is the third arm in the Commonwealth's regulation of corporations, the other two being the Australian Securities and Investments Commission (ASIC) under the *Corporations Act 2001*, and the Australian Competition and Consumer Commission (ACCC) under the *Trade Practices Act 1974*' (ORAC, 2005/2006, p. 2).

Thorburn (2011) argues that, when the term governance is viewed from within a Western democratic frame and is used in this way, the term 'governance' effectively constitutes Indigenous subjects in certain ways and in doing so, creates a space in which they become governable subjects. These norms become highly problematic when applied to a group of people who do not hold the same normative presumptions. The presumption here is that for ATSI people to be successful as 'normal' citizens, they need to understand western foundations of 'good governance' and implement measures which reflect Western ideologies. Even though the intent was to set up a legislative framework and administrative body to enable ATSI people to set up corporations in line with ATSI cultural practices, the frameworks which dictate how ORAC work with and support ATSI people and corporations in effect excludes ATSI people from including their own cultural practices as intended.

The reference to the races power of the Australian Constitution, the Australian and International principles of sound corporate governance, and the Racial Discrimination Act and the inclusion of a letter from the Governor General on page 5 of the 2005/06 yearly report giving Royal Assent to the Corporations and other related Act instils a sense of trustworthiness and credibility of ORAC as a regulator. The concept of credibility is often associated with notions such as quality, trust, authority, and persuasion and is often associated with the authority provided by somebody or something that is perceived as holding trustworthiness and expertise or competence (Rieh & Danielson, 2007, p. 132). Hyatt (2003) argues that, one consistent way in which texts from all genres seek to establish the legitimacy of their claims, their common-sense assumptions and their world views is through reference to other texts, genres, discourses and individuals – what Fairclough terms intertextuality (as cited in Jorgensen & Phillips, 2002, p. 7). Even though the position of Governor General is not necessarily an expert in the area of Indigenous governance, the position as a representative of the government is held in high esteem by the general public. Recipients tend to accept beliefs, knowledge and opinion (unless they are inconsistent with their personal beliefs and experiences) through discourse from what they see as authoritative, trustworthy, or credible sources such as experts (Van Dijk, 1994). Where recipients do not have the knowledge and beliefs needed to challenge the discourses or information they are exposed to, they tend to accept what is communicated to them. This form of persuasive rhetoric has been used to convey the impression that what an agent of power says carries more weight and that the information contained within the text is objective and unarguably true.

The ORAC reports contain within it a number of conflicting discourses and frames which has seen the emergence and consolidation of a new style and rationale for government intervention which has encouraged formerly autonomous states to regress into penal states that value production, competition and profit above all else, including social issues or ideas related to things such as ‘the public good’ and the ‘community’ is now being discarded as unnecessary components of a welfare state (Martinez & Garcia, 1998; Bourdieu, 1999a; Beeson & Firth, 1998). This ideology has led to many changes, which include the dismantling of the welfare state and the individualisation of all actions. This approach conflicts greatly with ‘nation building’ approaches which valorise Indigenous sovereignty (Jorgensen, 2007).

5.3 NATION BUILDING

The enactment of the ACA Act has shaped and influenced both the practice and the theory

around Indigenous governance during the last three decades. Previously ATSI corporations were viewed through the lens of a deficit model. ATSI people today are reimagining and reviewing their governance practices by challenging the way in which Indigenous governance is viewed and talked about. In the last decade, in particular, there has been a shift in communities from imposed governance to embracing it and shaping and driving and owning their own processes (Bauman, Smith, Quiggin, Keller, Drieburg; 2015). This resonates with the discourse of native nation building as advocated by Jorgensen (2007). The discourse of native nation building is founded on five key characteristics which have been described by Jorgenson (2007) as essential for overcoming the social and economic development challenges evident within many Indigenous communities. The characteristics are as follows: (i) native nations assert decision making power (ii) native nations back up that power with effective governing institutions (iii) governing institutions match Indigenous political culture (iv) decision making is strategic (v) leaders serve as nation builders and mobilisers. Indigenous people today are expressing a greater desire for creating legitimate and effective governance institutions and have adopted the principles of native nation building.

The ORAC 2005/2006 vision statement seeks to instill a level of trust in the work of ORAC and sets the direction for how ORAC supports and enables ATSI to achieve sound corporate governance practices which will enable them to achieve positive social and economic outcomes. This involves building institutions of self-government that are culturally appropriate and that are effective in addressing the challenges confronting ATSI corporations. The vision statement not only sets the tone and the culture of the organisation, it provides a foundation for the principles that guide the work of ORAC. Excerpt:

Aboriginal and Torres Strait Islander people securing strong and viable futures
through good governance of their corporations (ORAC, 2005/2006, p. 7).

Even though the ORAC vision statement promote and reflect the discourse of native nation building as outlined above, a number of presuppositions of what is considered to be 'the problem' are implicit in the statement. The statement implies and reinforces the notion that ATSI are not capable of managing their own affairs and require the assistance of government agencies such as ORAC. This suggests that the 'problem' is waiting to be solved, corrected or addressed by the government (Bacchi, 2012). The statement ATSI people securing strong and viable futures through good governance of their corporations implies that there is a lack of this presumably desirable state of condition (i.e. lack of good governance within ATSI corporations is

constituted as a 'problem') thus justifying the place and role of ORAC and other professionals (i.e. administrators). Policy statements, such as, the vision statement not only provide the foundation for the way in which ORAC conducts its business, they elicit particular forms of subjectivity, influencing how we see ourselves and others (Bacchi, 2012). Further to this, the vision statement seeks to demonstrate that the actions taken by ORAC are of benefit to ATSI people (van Dijk, 1997). In keeping with their vision statement and the guiding principles, ORAC provides a number of services that are largely aimed at enhancing the foundational capacity for effective self-rule and for self-determined, sustainable, economic and community development (Cornell, 2002, p. 5). On page 3 of the 2005/2006 report, the Registrar makes the point that;

an essential part of their incorporation and compliance work is the provision of information and assistance to groups before and after they have incorporated (ORAC, 2005/2006, p. 3).

The services which include: assisting; monitoring and examining as described in Chapter 5 seek to increase the capacity for self-rule and to build the confidence and trust of ATSI people and communities. According to the Registrar, 'a higher proportion of corporations than ever before were deemed compliant or partially compliant – that is 46 per cent (ORAC, 2005/2006, p. 3). The Registrar attributes this to the services provided prior to and during incorporation. As part of their aim to be both accessible and responsive services which seek to empower ATSI people, ORAC provides a personal service to clients, whereby clients can contact ORAC on a toll-free number. In addition to the above, ORAC provides a number of accredited and non-accredited training aimed essentially at building the governance capacity of ATSI groups and corporations and produce and publish a number of electronic publications.

The literature suggests that governance is an issue over which ATSI communities potentially have significant control and getting governance right is hard work but critical to improving ATSI health, wellbeing and quality of life. ORAC can play a major role in terms of nation-building and strengthening organisational capacity amongst Indigenous corporations.

5.4 POSITIONING OF ATSI PEOPLES

Although the ORAC reports make reference to and or include a number of frames that might attract the attention of ATSI people and others with a vested interest in ATSI communities and people, in the main, ATSI voices and perspectives are missing. The ORAC reports include a number of elements that work to position ATSI peoples within unequal relations of power, at the same time

exemplifying the processes of hegemony that compel the reader to accept the evidence suggested by the dominant elite as relevant, truthful and trustworthy (Blommaert & Bulcaen, 2000). An example of this can be found within the ORAC 2005/2006 annual report; this includes reference to a number of acronyms and high-level English words and a number of key terms and phrases, such as, 'special needs'; and 'risks'; feature predominantly on the introductory page. Excerpt:

ORAC performs its work in a way that takes account of the special needs, requirements and risks of Indigenous corporations, consistent with the race power of the Australian Constitution and the Racial Discrimination Act 1975 (ORAC, 2005/2006, p. 1).

The language of 'special needs, requirements and risks' are used here, with an emphasis on the race powers of the Australian Constitution and the Racial Discrimination Act 1975. The language of 'special needs, requirements and risks' serve only to position Aboriginal people as 'problems'. This automatically raises questions about the competence and capacity of ATSI people to be able to determine their own futures including managing their own structures and organisations. The use of the term 'special needs, requirements and risks' have been used throughout the texts without any explanation of what ORAC means when using these terms, it does not further explain what these needs are, nor how they can be met. The terms, 'special needs and risks' are presented singularly, often implicitly as though they are not open to interpretation or a by-product of unearned white race privilege. Within the excerpt, there is an implicit statement that ATSI people have not yet attained good governance practices and that they cannot achieve this without the help of ORAC. In the absence of a discussion and explanation of what these 'special needs, requirements and risks' are, my conclusion drawn is that the statement exemplifies the naturalised status of ATSI people from the settler state. The use of such terms continues to marginalise ATSI peoples and can lead to a distorted view of ATSI people and what is perceived as their problems.

The ORAC reports contain within it a number of persuasive discourses and taken-for-granted assumptions that reinforce and 'normalise' the ideological stance of the dominant culture which have been circulated as the truth and which subsequently position ATSI people. For example; an excerpt:

The work, often involving long lead times, high level planning and intensive resources,

shows improvements in community stability through the appointment of administrators (see p. 40), assistance with resolving disputes (see p. 38), better reporting and general compliance by our corporations (see p. 41) and increased governance skills for training graduates (see p. 36) (ORAC, 200/2006, p. 3).

Depending on whose lens you are looking through, the above comment can be construed in a different light. This representation automatically raises concerns in the minds of most people that there is something fundamentally wrong with ATSI people. The statement gives the impression that improvements in community stability are attributed to the actions taken by ORAC, namely, the appointment of non-Indigenous administrators. Comments as such, serve no other purpose other than to reinforce the ideological stance that government must bestow help upon ATSI people as they are unable and incapable achieving success and improving current conditions without the assistance of government and that government must bestow help upon ATSI minimising the opportunity for self-determination. Embedded within the language of this statement is the notion of agency that is attached to the State as that which makes decisions regarding what measures to protect ATSI subjects can be taken and when. It is plausible to assume that if ORAC represents the dominant elite, then, the ideologies that support this view can be reflected in how ORAC view their work and the way in which they deal with ATSI people and communities.

Thorburn (2011) maintains that a part of the problem is that government sees it as the solution of the future in spite of the recognition that government has not had a true conceptualisation of the problem. The assumption here is that ATSI people lack the personal and social capital necessary to achieve good governance and are not able to manage their own problems without engaging the help of government and others, such as state and local government, trainers, auditors and management consultants. Whilst the dominant western ideology continue to represent and position ATSI people as “problems’ to be solved and not as active partners, dominant mainstream interests will continue to be produced and reproduced within current governance structures and Aboriginal interests will continue to be marginalised (HREOC, 2006, p. 18). This can lead to a distorted view of ATSI people and their ability to manage their corporations and reaffirms the notion that the actions and decisions taken by ORAC are in the best interest of ATSI communities and therefore ORAC should not be criticised or held responsible for the lack of improvements in Indigenous governance. In this way, the oppression of the marginalised natural and inferior ‘other’ is effected and maintained.

The non-inclusion of ATSI voices in the 2005/2006 ORAC report reinforces the construction and representation of Aboriginal people as ‘other’. The sense of ‘other’ was fundamental to colonialism, where discourse was based on binary constructions of self/other, civilised/native, us/them. In this discursive framing, white remained the subject/self and Aboriginals were the objectified other (Miley, 2006). The white self is an unproblematic positioning in such texts against which the “other” must be accounted for and explained. Such constructions and representations of the ‘other’ have been deeply rooted in past colonial practices and have become strongly entrenched social myths (Pickering, 2001). This distinction creates what Fairclough (2013a) describes as a binary. Binary works to establish a classification scheme, whereby ATSI people are detached and separated from “*other Australians*”. Van Dijk (1994) contends that in liberal discourse Indigenous people or minority groups are nearly always defined as ‘them’ and seldom as part of ‘us’. Indigenous people or minority groups constitute people who have problems and therefore need help from liberal whites. Problems experienced by minority groups are ignored or blamed on them (Van Dijk, 1994, p. 15). By pointing the blame at ATSI people, government free themselves from any responsibility for the socio- economic conditions of ATSI peoples. This strategy of blame is deceptive as ATSI people appear as the people who perpetuate the problem, thus making the conversation revolve only around ATSI without having to acknowledge and resolve the issues. The control of knowledge influences people’s level of understanding and attitudes towards ATSI people. Whilst dominant culture and ideologies continue to create and perpetuate the ideologies of the settler state and exclude ATSI voices, the relationship between ATSI people and government will continue to be one of ‘them’ and ‘us’.

The overall absence of the acknowledgement of the diversity of ATSI circumstances and needs within and between ATSI communities and ATSI people and the homogenisation of ATSI people imply that ATSI groups are the one people and therefore speak with one voice. The use of the term Indigenous and references to Indigenous people and ATSI people interchangeably without any meaning or distinction in key documents such as the ORAC reports serve only to reinforce stereotypes and add to or create myths about ATSI people as being one distinct group of people. An example of the homogenisation of ATSI people by ORAC can be found in the ORAC 200/2006 yearbook where the following statement features predominantly in the report and forms a part of the Registrars review for the year. Excerpt:

As I said in the Yearbook 2004-2005, there are no quick fixes in Indigenous affairs
(ORAC, 2005/2006, p. 3).

Deeply embedded within these constructs are systems of classification and representation. The reference to 'Indigenous' is a misrepresentation of ATSI peoples. Depending on whose lens you are viewing this from, the claim that there are no quick fixes in Indigenous affairs since 2004/2005 paints a picture of ongoing dysfunction and problems. Further to this, the conversation style and the use of the pronoun 'I' communicates sincerity and dignity, this assists in the acceptance of the government's narrative and increases legitimation for the voice of authority (Blommaert & Bulcaen, 2000). ATSI people are represented and positioned as being difficult and unable to conform to the regulations and controls set by the State and as such do not meet the norms. Declarative assertions as such serve only to create the façade that the issues presented are not contested.

The absence of acknowledgement of the diversity of ATSI people and cultures points to further post-colonial processes and racial stereotyping. The use of the term Indigenous constructs a false identity and conflicts greatly with the calls by both ATSI people to be recognised as two different cultures. Such frames become legitimised as myths which outsiders are supposed to believe, as they have become one of the main ways of 'knowing' about Aboriginal people as relatively few Australians have direct relationships with ATSI people (Wodak, 2001; Reconciliation Australia, 2009). Myths are powerful because they influence our thinking about those things we might not have any opportunity to directly experience. Reconciliation Australia (2009) maintain that ATSI people are not a homogenous group of people they comprise a collection of nations, with different languages and cultural practices and confronting different challenges in their communities. The homogenisation of ATSI people into one collectivity, as represented in the discourse of the ORAC reports, creates and reinforces the homogenisation of ATSI people and serves to disqualify the diverse lived experiences of ATSI people and within ATSI communities themselves. The lack of recognition and respect for the diverse cultures and traditions within Indigenous communities can be seen as a lack of recognition of the diverse environments in which many Indigenous communities and organisations operate. This can impact drastically on the way in which services are delivered and or supported by the very people they are aimed at: ATSI people. This construction can be found in many of the discourses investigated in the research in varying ways.

In summary, then, the legacies of colonisation and Western hegemony continue to influence the way in which ATSI people are represented and positioned. The documents produced by ORAC are produced from the dominant western perspective. The overall results of the analysis

demonstrate that the ORAC reports perpetuate discourses in which negative stereotypes of Aboriginal people are constructed, much of which is stated as fact. Additionally, the manipulation of data and statistics to support these claims provides credibility and authority to ORAC. These constructions serve to bolster the power and credibility of ORACs political ideology whilst subjugating the knowledge and voice of Aboriginal Australians in these subjugative processes. The politics of representation, who speaks and where knowledge production occurs are important factors in the analysis of the discursive practice. This bias contributes to the hegemonic power structures embedded within the texts. The potential persuasiveness of the ideology is evident through the use of discourses and frames the position ATSI people as requiring the help of ORAC to manage their corporations, and communities. This is of concern to Aboriginal people and researchers, as information presented is misused (distorted) in a number of ways in the ORAC reports. The reference to the Australian constitution in the Registrars review serves only to reinforce the notion of nationhood and locates the State in a position of importance. This use of language indicates that power is located within the State as the decision-making body, which is able to make decisions that are sensitive to the lives of ATSI people.

In short, the measures adopted by ORAC are disempowering for ATSI individuals because ATSI people have been portrayed as needing the help of government or others (administrators) to solve their issues or problems and the strategies put in place to assist ATSI people to develop the knowledge and the skills to take control of their corporations have not worked. The strategies put in place to support ATSI people achieve sound corporate governance practices have punished rather than support ATSI people as intended. Further to this, the support has not considered ATSI worldviews and has not been developed in partnership with ATSI people. Any such partnership is a vital but currently missing link in all interactions between ATSI people and the government agencies entrusted to work with them. Trust between ATSI people and ORAC is an important starting point for any program development and implementation and must be established prior to undertaking such work. The ORAC yearly reports maintain and exercise power by maintaining dominant settler Western ideologies about what constitutes or should constitute particular views or a course of actions or inactions in regards to ATSI people. Strategically constructed narratives and discourses contain predictable elements and strategies whose aim is to appeal to the emotions of the reader and to influence public opinion and serve only to reinforce cultural myths and stereotypes. It is a promotional performance which serves

only to maintain the racialised privilege/disadvantage divide in contemporary Australia which enables Indigenous cultures to be constituted as inherently dysfunctional. However, such a conclusion does not suggest that ORAC and ATSI corporations can obviate their responsibility in regards to ensuring corporate compliance. Effective and transparent administrative processes are essential, to accept less is oppressive (Sullivan, 2007).

5.5 CONCLUSION

The ORAC reports contain within it a number of intended and obvious messages which it embodies and it also contains a number of unintended and hidden semiotic messages which it transmits. I have sought to identify the values, beliefs and ideologies communicated throughout the reports by critically analysing the governance discourses and frames contained within the ORAC reports. I drew heavily upon the stories and the visuals contained within the ORAC reports and I highlighted those features of a text that appear to be textual manipulations serving non-democratic purposes. While 'both' discourses of standard and nation building governance are evident in the ORAC reports, the former outweighs the latter. This was evidenced by the way in which ORAC conceptualises Aboriginality in homogenous terms, how Indigenous "problems" are discussed in ways that abrogate 'white' society from their role in creating them, and how, ultimately the solution to such problems is posited as being Indigenous compliance with the dominant order. In this sense, the ORAC reports serve only to maintain settler colonial relations of power.

CHAPTER 6 - WHAT DO THE IMAGES TELL US?

INTRODUCTION

Indigenous governance and the study of government seek to investigate political power beyond the state and hence share a number of common themes and discourses which are often accompanied by symbols and visual images. These images become both a mirror and a lens for shaping social beliefs and can establish or reinforce stereotypes (Dimnik & Felton, 2006). The corporate annual report is an exercise in communication in that an increasing proportion of the communication is carried by the discretionary words and visuals that surround the statements and other regulated documents (Davison, 1988). Drawing on the concepts of intertextuality (that is the way in which the meanings of any one discursive image depend not only on that one image, but also on the meanings carried by other images and texts) and hegemony (the predominance in and the dominance of political, ideological and cultural domains of a society) this chapter seeks to explore how the visual design of the ORAC annual reports and the use of selected images and associated motifs are used to influence the perceptions of its readers to convey a particular message and or mould or project a particular corporate and organisational identity (Rose, 2001; Greenwood, Haylock & Uhlenbruch, 2008).

The exploration of the visual images contained within the ORAC annual reports is informed by and builds upon the previous findings presented in Chapter Six. Visual images in this study refer to and include symbols and signs such as Indigenous artwork, photographs, graphs and diagrams and maps. These images can be read in various ways and at various levels and are open to interpretation and form a corpus of evidence to be deciphered. Accordingly, annual reports are social constructs and increasingly seen as rhetorical devices (Justesen & Mouritsen, 2009). This chapter explores the significance of selected images and associated motifs appearing in the ORAC 2005/2006 yearbook and argues that ORAC reports continue to reinforce western dominant ideology that continues to view ATSI institutions and capacity through the lens of a deficit model and or dysfunctional.

6.1 CHANGING ROLE OF THE ANNUAL REPORT

In spite of the growing quantity and sophistication of the annual reports and the importance of the annual report to both lay and expert readers, research into the importance of the annual report remains inadequately researched (McQueen, 2001; Neimark, 1992). Prior work on the corporate

annual report includes, for example, McQueen (2001), who used content analysis to argue that that the annual report is still considered by companies to be the most appropriate medium for disclosure over other media. More recent studies include Davidson's (2007) analysis of the rhetorical significance of the graphic design of annual reports. However, in spite of the significance of these contributions, relatively few studies have investigated the intent and the use of photographic and other visual materials and presuppositions in the production of government annual reports. In seeking to redress this, this study focuses on the use of visual images in the ORAC annual reports, which have been produced by government for government. The annual reports produced by ORAC provide a chronology of political and social events and lends itself to the identification of themes and trends.

The corporate story in annual reports is often told in part through pictures/images. We live in a visual world and in more recent times, producers of the reports have become more mindful of the rhetorical power that graphic design can have over the minds and perceptions of their readers and as such have used the annual report as a tool to influence and persuade their audiences. Visual images are an essential element of the annual report, in that the visual images are commonly used as an important tool for moulding or projecting particular corporate and organisational identities (Schroeder, 2005; Davison, 2002; McGoun, 2004; Mckinstry, 1996). The increase in the significance of the design of the annual report raises important concerns regarding their role and function. The annual reports are no longer plain and are now characterised by brilliant colours, gloss and novelty formats such as art works, high-resolution images and pictorial presentations which adorn the pages of the annual report.

The exposure of the annual report both online and in print has made the reports more accessible together with the visual design has made it more attractive to the reader. Justesen and Mouritsen (2009) argue that such images are not merely 'empty signifiers' which function merely as decorative space fillers. Rather they operate intertextually and as a legitimating strategy and are intended to convey a particular message. Producers pay strong attention to the design of narrative sections since these sections respond to the human need to construct meaning and connections out of seemingly disparate pieces information. The reader then relies on previously learned 'languages' or 'systems' to support any derived meaning. The use of visual and symbolic images reinforces a particular mental picture among its readership bolstering its identity, legitimacy and public image. Justesen and Mouritsen (2009) maintain that the visual images used in the annual reports are increasingly been recognised as social constructs and are seen as

rhetorical devices. Hui & Rudkin (2010) maintain that the visual images within these reports play a crucial role in enabling this rhetoric.

6.2 THE ORAC ANNUAL REPORT

The production and the publication of the ORAC annual reports have changed dramatically since the enactment of the ACA Act. Previously, the annual reports contained only textual information in a black and white format. The 1991-1992 Annual report included 14 pages and a photograph of the Minister for Aboriginal and Torres Strait Islander Affairs, The Hon Minister Robert Tickner. The report produced by ORAC during the last 2 decades engages with and uses both images and written accounts to inform and relay information. The adoption of the use of visuals, and symbolic motifs and colours mark a clear change from previous years. The reports reflect the changes and the transition in which ORAC has evolved.

ORAC yearly publications produced during the last decade do more than report on the activities and the actions taken by ORAC, they are a visual medium through which ORAC attempts to inform and relay information and constitute themselves as an effective agent of government and in doing so project a particular corporate and organisational identity (Preston et al, 1996). Dimnik and Felton (2006) argue that the image chosen becomes both a mirror and a lens for shaping social beliefs and can establish or reinforce stereotypes. The images produced in the annual reports have been used as a tool to represent, validate and to justify the bureaucracies and the intangibles of the organisation that cannot be communicated either numerically or by text (Davidson, 2002). Preston et al (1996) argue that the images contained within the annual report contain deeply embedded social significances, which may reveal society deep structures of social classification, institutional forms and relationships.

The design considerations such as photographic style, composition and the selection of subject matter do not happen accidentally, but are deliberate choices made by designers with the intention of persuading report readers. Bal (2003) and Mitchell (2005) argue that the photograph is a coded message between the photographer and the viewer in which the photographers create and the viewer decodes. It is obvious that some care has been taken to select and include various photographs to represent the work of ORAC. For example, a black and white photograph of what appears to be ATSI people adorns the cover of the 2005/2006 yearbook and red and yellow ochre colour accompanies the photo. Eleven images have been strategically used throughout the ORAC report. These images generally aim to imprint impressions of the company in the minds of

stakeholders (Davison, 2010). The images used in the annual reports seek to capture and represent a connection between an organisation and the image it wishes to project (Preston et al 1996). The interplay of such images gives visibility to the use of such annual reports to what is not said and what cannot be said or measured. Design can thus serve a properly rhetorical function since it can be used to omit the negative elements of a department's activity. A black and white photograph of the Registrar features predominantly on page VI in the 2005/06 yearbook. A photograph of an ATSI person is absent.

PHOTOGRAPH HAS BEEN REMOVED DUE TO COPYRIGHT RESTRICTIONS

The use of Aboriginal artwork and colours often associated with ATSI people and culture suggest that the Registrar has close connections to ATSI culture and people. The producers of the text have sought to emphasise the human nature of the Registrar and seek to demonstrate that the Registrar is friendly and approachable by deliberately including a photograph of the Registrar who is smiling and appears to be happy and relaxed thus appealing to the emotions of the reader. Together, the graphic elements construct a narrative of respect, friendship and support. This same image, however, may equally be read as an attempt by the producers of the text to challenge the negative perceptions ATSI people have historically experienced with government and those representatives charged with responsibility for enforcing regulation and compliance particularly where these experiences have involved violent conflict, forced removal, the separation of families, the denial of basic rights, entrenched discrimination and inequalities within the settler society. Hunt (2013) maintains that the history of engagement between governments, the wider settler society and ATSI people affects contemporary engagement. The effects of these historical policies, some of which only ended in the 1970s have contributed to lack of trust in government and government representatives. The use of this photograph seeks to shift the discourse of ORAC as a regulator, to construct a discourse of a humane and caring bureaucracy in touch with ATSI people and communities.

In their attempt to legitimise the role of ORAC the producers of the text have utilised a number of visual tools to enable the reader to see the world through the eyes of others and to elicit an emotional response. The inclusion of images, photos, graphs and artwork is used as a tool to attract the attention of those readers who may not necessarily be able to comprehend the

financial statements alone but also to convey rigour and industry. The use of Aboriginal art, symbols and photographs are used by ORAC to make a connection with ATSI people and to legitimise their status as experts in working with ATSI people. A number of photographs of both ATSI people and staff have been included in the 2005/2006 yearbook. As well as the inclusion of photographs, 5 distinct colours (green, red/orange ochre, red, blue, red and black – the colours of the ATSI flags) have been used throughout the book to separate the different sections of the report underpinning the suggestion that the ORAC functions first and foremost to support Indigenous sovereignty in a ‘nation building’ modality of governance. Whilst the imagery and the colours are symbolic and representative of ATSI sovereignty and hence ‘nation building’ approaches to governance, as the previous chapter illustrated, this is at odds with the far more ‘standard’ mode of governance that the reports actually reflect. The governing rules and frameworks adopted by ATSI corporations are based on external values, standards and concepts and decision making is short term, non-strategic and often externally controlled (Cornell, 2007).

In addition to the photos included on the cover page and the introduction page, a number of black and white photographs of ORAC staff and community members are included throughout the publication. For example, page 6 includes a black and white photo of ORAC staff. Page 13 includes a coloured photograph of a highly accomplished Aboriginal comedian. Page 15 includes a black and white photograph of Aboriginal women and non-Indigenous women. The photo accompanies the section of the report that deals with the services provided by ORAC. Page 22 includes a black and white photo of participants at the ‘Introduction to Corporate Governance Workshop held in Canberra. Blue and green colours accompany the photograph of the two Aboriginal women participating in the governance workshop. The photographs show the women fully engrossed in the workshop. Page 24-25 includes a black and white photograph of two Aboriginal women sitting on the ground with a non-Indigenous woman seated next to them listening to another non-Indigenous woman with 2 dogs included in the photograph. Page 32 includes a black and white photo of two Aboriginal men sitting at a table reading documents. The caption states: “participants at an information session”. Page 34 includes a black and white photograph which is accompanied by the caption, staff member Masepah Banu, responding to calls on the hotline. The colour red accompanies the photo. Page 47 includes a black and white photograph of ORAC staff celebrating National Aboriginal and Islander Day Observance Committee (NAIDOC) week. The colour red accompanies the photo. Even though the photo of staff celebrating NAIDOC week is captured and forms part of the report, Aboriginal

voices are not included, hence remain invisible. Page 48 includes a black and white photo of a man and woman seated at a table completing documents. The caption reads: "Participants at an Introduction to Corporate Governance workshop". Written texts can help the reader, both historically and in contemporary times, make sense of an image, but titles and captions can equally function to control the possible meanings of a photograph, they can be projected into the image (Grosvenor, Lawn & Rousmaniere, 1999, p. 95).

The ORAC 2005/2006 publications include a total of 12 photographs, which include photographs of the Registrar and/or ORAC staff conducting meetings with ATSI people in various settings including both formal and informal bush settings. The reports also include photographs of Aboriginal people sitting at desks observing the Registrar or staff writing on white boards. In contrast to this, photographs of the Registrar and/or staff holding meetings with ATSI people in the bush sitting on the ground under a tree or makeshift humpy (shelter) have been included. The publications started off as your standard glossy prints with only a photograph of the Minister included, over the years the photographs have included photos of ATSI people in pairs or groups and or engaged with ORAC staff whom are mainly non-Indigenous staff. The photographs used in the reports show people smiling, listening intently, completing forms or paperwork and actively participating in the meetings or workshops. The discourse and the illustrations/photographs used in the reports aim to link what is being presented as a new and more progressive way of engaging ATSI people and managing service delivery, therefore, making the ORAC more transparent, responsive, effective and above all, trusted. The images portrayed by ORAC seek to demonstrate that ORAC understands that ATSI is not merely a collection of interest groups, but of governing nations and that ORAC is committed to supporting ATSI people develop effective governing institutions by providing advice and resources no matter where these groups are located. The images seek to portray a nation building approach whereby ATSI people are seen as determining their own future and ORAC is seen as assisting ATSI people and communities.

In addition to demonstrating that the services offered by ORAC reflect the diverse needs of ATSI communities and organisations, ORAC have sought to demonstrate that the services provided by ORAC to support Indigenous governance are culturally appropriate and readily accepted by ATSI communities and that both ORAC and ATSI people are working in partnership to solve the issues of corporate governance. They do so, by including a coloured photograph of a highly accomplished Aboriginal comedian with open hands. These photographs have been used to legitimise the work of ORAC and to demonstrate to the reader that the ORAC is willing to go to

any lengths despite the barriers of remoteness, language and diversity to ensure they are doing everything they can to assist ATSI communities and corporations. The visual images and associated motifs contained within the annual reports imply that ORAC are willing to work with ATSI groups in any situation to work through any possible governance issue and at the same time play a key role in terms of legitimising the role and credibility of ORAC. This, however, is at odds with the previous chapter's analysis in which it was highlighted that the ORAC reports present 'problems' of governance as endemic to Aboriginality and disconnected from the dominant white society. In this way, the dissonance between the text and imagery of the reports can be observed. The images portrayed in the reports conflict with what is being said and serve to smooth over the hegemonic underpinnings of the reports' messages.

The photographs contained within the ORAC reports aim to persuade and convince the wider community that ORAC are doing everything they can to help ATSI people to manage their corporations by providing access to education and training regardless of where ATSI people are located. This gives the impression that if ORAC are doing everything they can to help ATSI people better manage their corporations, and if they continue to be non-compliant, then the problem rests with ATSI people and not ORAC. Further to this, the producer of the text is deliberately portraying a picture that all ATSI people are happy with the services of the Registrar and the way in which the ORAC works with Indigenous people. On page 32 of the 2005/06 yearbook, a photograph of two elderly Aboriginal men reading a number of documents features predominantly in the introduction part of this section of the document. The photo introduces the section on accountability. This photo has been placed strategically in that it is in the accountability section and from an Indigenous perspective the use of the image of two elderly men is powerful as Aboriginal elders within Aboriginal society play a very important role, and within Aboriginal culture younger generations of ATSI are accountable to our elders. The image gives the impression that ATSI people can read and write and that the information presented by ORAC is easily understood.

PHOTOGRAPH HAS BEEN REMOVED DUE TO COPYRIGHT RESTRICTIONS

The photograph has been used by ORAC as a tool to demonstrate that the level of education and training offered by ORAC is appropriate and that ATSI people fully understand what is presented to them. This image, however, contradicts and conflicts greatly with ORAC own admission that in remote parts of Australia members and directors may speak English as a second, third or even

sixth language (ORAC, 2005/06, p. 4). An independent review of Indigenous education in the Northern Territory conducted in 1999 asserts that the educational achievement of ATSI people is comparatively lower compared to non-Indigenous Australians (Collins, 1999). These statistics have not improved greatly in spite of the injection of funds, and literacy and numeracy being prioritised by the Australian government, as the 2015 NAPLAN results indicate that ATSI people continue to fall below the benchmarks as identified. According to the Department of the Prime Minister and Cabinet, between 2008 and 2014 the proportion of Indigenous students at or above the National Minimum Standards in reading and numeracy has shown no statistically significant improvement nationally in any of the eight measures (Years 3, 5, 7 and 9 in reading and numeracy) (Department of the Prime Minister and Cabinet).

In addition to utilising photographs and cultural markers, the ORAC reports contain within it a number of visual aids such as, graphs, tables, statistics and colourful maps that work to position ATSI people. On page 2 of the 2005/2006 ORAC report, the following table feature predominantly.

TABLE HAS BEEN REMOVED DUE TO COPYRIGHT RESTRICTIONS

Even though the statement seeks to portray the level of compliance in a positive light, the fact that only 46% have complied automatically raises concerns about the other 54% that have not complied and the impact that this has on communities. The fact that only 46% of corporations incorporated under the ACA Act in the 2005/2006 financial year were compliant with the regulations, suggest that the western democratic frameworks conflict with Indigenous governance practices, ways of knowing, being and doing. The use of statistics and graphs without detailed explanations of the data can be seen to be supporting the deficit discourse that ATSI people do not have the competency and the capacity to manage their own corporation. When methods of deficit discourse are persistently employed stereotypes of Indigenous disadvantage are reaffirmed and dominant ideology is legitimised (McCallum, 2011). Representations are therefore paramount to how populations perceive others and perceive themselves (Bambllett, 2011). The use of such graphs, are used by ORAC as a visual frame to promote and legitimise the role of ORAC as an effective regulator.

Maps, tables and the graphs are also featured throughout the publication. The graphs which feature on pages 41 – 43 are brightly coloured and have been used as a tool to draw the reader's

attention to the number of corporations that are non-compliant during the last decade. The graphs and the tables seek to indicate the number of examinations initiated and conducted and the number of administrators appointed and deregistration completed from 1999/2000 to the 2005-06 financial year. The inclusion of such detail justifies the level of funding provided to ORAC and seeks to demonstrate that their role as a regulatory body is being carried out effectively. A table justifying the number of governance workshops and information sessions would have provided a different picture and the way the level of compliance is measured. The graphs serve only to portray ATSI corporations in a negative light.

TABLES HAVE BEEN REMOVED DUE TO COPYRIGHT RESTRICTIONS

The reports do not include information about the reasons as to why these organisations are non-compliant. The omission of important information as to why organisations are deemed not to be compliant suggests that even though ORAC is doing everything they can to assist ATSI people in terms of education and training, the problem for the non-compliance rests with ATSI people and not ORAC. The inclusion of tables and graphs highlighting noncompliance consequently deflects public consciousness from the systemic conditions underlying and perpetuating Indigenous inequalities, and focuses, instead, on recycling its own misconceptions of ATSI people (Jennings, 2004, p. 130).

Even though the ORAC reports make reference to and or include a number of visual frames that might attract the attention of ATSI people, in the main, the visual frames used throughout the ORAC document seek to promote and legitimise the role of ORAC as an effective regulator. The visual images are always used for a purpose; they are always in context and like all other constructions are open to deconstruction. This was evidenced by the use of photographs which promote ORAC as being a friend and ally of ATSI people and that ORAC are doing everything they can to educate and empower ATSI people no matter where they are located. The few photos used to demonstrate their education and support programs in the form of workshops in the community and or community organisations conflict with the reality on the ground. Other than a short statement on page 13 of the 2005/2006 ORAC report, where the Registrar recognises that English is a second, third or sixth language in some communities, the level of education and literacy within ATSI communities does not appear to feature as a major

impediment to the delivery of services particularly, to those in remote communities where the highest proportion of organisations are situated, is very low compared to other parts of Australia. Further to this, the images seek to legitimise ORAC as an expert in working with ATSI people to justify the role and the actions taken by ORAC to deal with non-compliance. This discourse avoids analysis of the historical and political factors which have led to and perpetuate dysfunction. This has impacted on the way in which the ORAC view and represent ATSI people.

6.3 CONCLUSION

I have sought to identify and analyse the visual images and photographs contained within the ORAC reports and I highlighted those features that appear to be textual manipulations serving non- democratic purposes. The ORAC yearly reports maintain and exercise power by maintaining dominant settler Western ideologies about what constitutes or should constitute particular views or a course of actions or inactions in regards to ATSI people. Strategically constructed visuals and discourse in the ORAC reports serve only to maintain settler colonial relations of power and ATSI governance practices are ignored. The reports then serve only to reinforce western dominant ideologies that continue to view ATSI institutions and capacity as dysfunction and through the lens of a deficit model.

CHAPTER 7 - CONCLUSIONS AND IMPLICATIONS

INTRODUCTION

The aim of this study has been to explore how ORAC, an instrument of government represents and positions ATSI people by uncovering and challenging the ideological assumptions, values and beliefs that form the foundation of ORAC. As an instrument of government, the institute serves as a source of legitimacy anchored in a Eurocentric Western dominant paradigm whereby Western knowledge, language and culture are privileged. The use of a decolonising framework and processes has been critical for disabling the colonial mindset that has been internalised by Indigenous and non- Indigenous Australians. The study was guided by the following research question:

How has the Office of the Registrar of Aboriginal Corporations represented and positioned ATSI people?

In chapters five and six, I have sought to identify those elements of the reports which are open to an alternative and potentially more empowering outcome by uncovering and challenging the ideological assumptions, values, beliefs and relationships hidden within the annual reports. I examined the discourses and frames that normalise, politicise, pathologise, eroticise or mythologise ATSI peoples in order to validate and or rationalise the actions taken by ORAC. Keywords, extracts and visual images and associated motifs have been analysed in an attempt to identify the values, beliefs and ideologies communicated throughout the publications that influence, shape, mould and project a particular message.

I begin this chapter with a brief overview of the study, including a review of the theoretical framework and research design. This foregrounds my summary of the major findings in response to the research question. Finally, I present some conclusions and recommendations for future research.

7.1 OVERVIEW OF THE STUDY

In this section, I provide an overview of the study with a review of the theoretical framework and research design to establish how the aims of the research were achieved. I also discuss the research problem and the approaches used to conduct the investigation. Through the literature, I establish that even though a lack of compliance with the ACA Act is a sufficient enough reason to

warrant an investigation of ORAC a more compelling reason for undertaking the research is to challenge and question the ideological beliefs and values that provide the foundation for ORAC and underpins the work of ORAC. I assert that the research is significant because the role of the ORAC as a regulator and an instrument of government has been subject to very little scrutiny in any of the highly emotional debates around poor corporate governance within ATSI communities and organisation. I make it known that this research is not a review of the ACA Act as it has previously been conducted which resulted in the enactment of the CATSI Act and the establishment of the Office of the Registrar of Indigenous Corporations.

Chapter 1 highlights the critical theoretical framework that informs and guides both the literature review and the study. Its value and significance for addressing the research question were provided. Indigenous ways of knowing, being and doing have informed and guided both the approach and the methods used in this study, in doing so, it has subsequently challenged the way in which dominant Western ideologies maintain and sustain dominant ideologies. Whilst dominant Western colonial discourses continue to function and position ATSI people in unequal relations of power, a decolonising framework that privileges Indigenous knowledge, ways of doing and being is a useful frame in which to challenge dominant western discourses and how they function to maintain authority and power over Indigenous people. This pedagogy does not take a defensive position, even though it may be perceived as such, rather it relies on Indigenous knowledge and experiences to inform and counter dominant western ideologies and values that have been normalised. In addressing the research question I found it necessary to examine the impact that colonisation and colonial ideology has had on the relationships that have developed between ATSI people and the colonisers. This relationship has been part of the construction of Aboriginal people as 'other' and as problems. This has subsequently influenced the way in which ORAC represent and position ATSI people.

Chapter 2 explores through the literature the tensions and contradictions that exist between dominant Western theories of governance and ATSI worldviews. It includes a comprehensive search of the topic of Indigenous governance and the binaries of Western notions of governance and Indigenous notions of governance. I sought to define the use of the word governance, in particular, corporate governance and Indigenous governance and I described the highly influential Harvard Project and the Australian Indigenous Governance Project as both have influenced the discussions and the debates around Indigenous governance within the Australian context and I concluded with a review of the discussions and debates of high profile Aboriginal

advocates and non-Indigenous advocates. The literature examined has a direct bearing on the research problem addressed in this thesis.

Chapter 3 the research design, describes the methodological journey I have taken as a researcher and a participant. I justify the use of the 2005/2006 annual report as the primary source of data on the basis that it is the last year in which ORAC administered the ACA Act and it marks the end and the beginning of a new era in Indigenous governance. The 2005/2006 annual report provides a glimpse of the political and ideological environment in which ORAC has operated more importantly it provides an ideal opportunity for the critical analysis of the values, key themes, beliefs and discourses within the report, This approach will capture a detailed picture of the tensions and contradictions which may affect the relations between Aboriginal people and government. In gathering data about the role of the State in Indigenous affairs I have drawn on previous years reports and submissions, historical documents, Hansard reports and the internet to source both historical information on ORAC services and more importantly issues around Indigenous governance. This data enables a contextualised understanding of the social relations producing the conditions in which Indigenous governance is viewed and talked about. In addition to this I discussed in detail the genre and the tools for analyzing the ORAC reports and the ethical considerations and the limitations of the study.

Chapter 4 the research context engages with and outlines the historical and ideological debates that shape and constrain Indigenous governance in Australia today. It includes a detailed history of the political discussions and debates around the introduction and the enactment of the historical Aboriginal Councils and Associations Act into Parliament. A comprehensive description of the history of the Office of the Registrar of Aboriginal Corporations is included, followed by an overview of the review of the ACA Act. I conclude by problematising the notions of Aboriginal communities and Aboriginal organisations. The aim is to provide contextual background information on the enactment of the 'special purpose legislation' and the subsequent reforms as these have all shaped the discourses and frames around Indigenous governance.

Chapter 5, analysing the data, focuses specially on the texts contained within the ORAC annual reports, what is said and how it is said; who is saying it and in what time and place by problematising familiar or 'taken for granted' discourses and understandings. It uses a decolonising framework to highlight discourses of governance embedded within the ORAC reports and focuses specifically on the use of declarative statements and classifications and the

use of euphemistic expressions and expressive modality to sustain and maintain dominant ideologies.

Chapter 6 critically analyses the visual design and images contained in the annual reports and focuses on the relationship between images and text and how these serve to reinforce cultural myths and stereotypes to influence and distort and reinforce and sustain dominant Western ideologies.

Through these chapters, the research question is considered and answered and the underlying assumptions and ideologies that influence the way in which ORAC represent and position ATSI people. Prior to discussing in detail the outcomes of the analysis, I discuss the strengths and the limitations of undertaking this research project and I make some suggestions for further research.

7.2 STRENGTHS & LIMITATIONS

The contribution of this study in relation to the research and discussions around Indigenous governance must be considered in its entirety including its strengths and limitations. Indigenous governance or the study of Indigenous governance has only recently gained momentum within the Australian context in the last decade. This study can be perceived as being limited, in that, I have not interviewed or engaged other ATSI people as part of the study, instead I have focused solely on my own personal and professional experiences and understandings and documented stories of other Aboriginal people to analyse how ORAC an instrument of government, represents and positions ATSI people. In doing so, it is hoped that stories of others support or give credence to the need to understand how government represent and position ATSI people and the effects this has on the way in which they work with and develop policy and programs intended to benefit Indigenous Australians. Interviewing other Indigenous people may have provided an additional dimension

Up until recently, there has been limited attention, given to the importance of the annual report and its influence over the perceptions of its targeted audiences. Even though there are numerous research projects that focus on the annual reports as a research topic, these studies have tended to focus on the design, role and function of the corporate annual reports. This study is very different to those, in that, my study focuses on how the ideologies and frames contained within government reports, such as the ORAC annual reports, perpetuate and sustain western dominant colonial ideologies that serve only to position ATSI people within unequal relations of power.

Because the topic is relatively underdeveloped, this has subsequently limited the number of publications on which I can draw reference to and make comparisons with. In spite of the limited number of publications in which I can draw from, the ORAC yearbooks provide sufficient information to enable me to critically review the ideological values and beliefs contained within the ORAC yearbooks and provide a new beginning for further research into the power of language and images in government reports.

Even though the study has taken some time to complete the issues within ATSI communities continue to plague both government and Indigenous Australians. It is hoped that the outcomes of this study will contribute to a small but growing cohort of research projects within Australia that have utilised decolonising theory and methods to analyse key government reports such as the ORAC yearbooks and annual report.

7.3 IMPLICATIONS AND POSSIBILITIES FOR FURTHER RESEARCH

The research undertaken during the PHD is by nature restricted to what can be accomplished during a PHD candidature, there are, however, many opportunities for much more detailed research in this area. This was partly because of the limited time frame and the specific focus on the ORAC reports. Even though I have relied on my own experiences, the inclusion of ATSI voices will strengthen the research outcomes which can have greater impacts beyond the Indigenous governance arena. The fact that I have not included empirical data such as interviews and observations as part of the research data can be perceived as a weakness of the research. Some suggestions on how to improve the data and information would involve a combination of interviews and questionnaires aimed at identifying the means through which ATSI people view the role of ORAC and themselves in terms of managing and governing their corporations.

7.4 MAJOR FINDINGS

Using a decolonising framework a number of key findings have emerged from the analysis of the ORAC yearbook. I found that the ORAC yearbooks and the annual report contain within them a number of different and competing frames and discourses. These discourses which have been conditioned and shaped by a range of historical and political factors, hidden agendas, social and economic factors as well as global reforms rely on one-dimensional frames of reference, which are historically constituted and supported by legislation, and policy that continues to represent and position ATSI people as problems and or 'other' (Phillips, 2011).

These factors influence what is talked about and how it is talked about and as such creates assumptions and rationales that authorise some policy solutions and not others. The key finding in the analysis of data is that the philosophical beliefs and values that guide and underpin the work of ORAC continue to reinforce western dominant ideologies that continue to represent and position ATSI people as dysfunctional and through the lens of a deficit model. When methods of deficit discourse are persistently employed, stereotypes of Indigenous disadvantage are reaffirmed, binary conceptions of Aboriginality are further buttressed and policies legitimised (McCallum, 2011, p. 29). This has impacted on the way in which ORAC have represented and positioned ATSI people and has subsequently impacted on the way in which ATSI people have perceived the role of government. The findings will now be discussed.

7.4.1 DISCOURSES OF GOVERNANCE

The ORAC yearly reports (annual returns) are produced by the government for government and as such reflect the values and beliefs of government. The discourse of governance is reflected in both the vision statement and the principles that form and guide the way in which ORAC conducts its business. The reference to both the standard and international standards of governance and the inclusion of principles that reflect a nation building approach seek to reinforce the notion that the work of ORAC reflects these standards and that ORAC is both a credible and legitimate regulator.

The layout and the design of the ORAC reports and the use of key terms; images and cultural markers reinforce these views. The ORAC reports are regulated by the Australian Public Service Act. The layout and the design of the ORAC reports have not come about by themselves, but are determined by subsection 63(2) and 70(2) of the Australian Public Service Act 1999 which dictates what must be included in the reports, for example, it must include: review by departmental secretary, departmental overview, report on performance, management and accountability, financial statements and other mandatory information. As discussed in chapter 5, the ORAC reports form part of the more detailed Families, Community Services and Indigenous Affairs portfolio structure and outcomes, which form's a part of the government's accountability framework. Each of these layers can have effects which make the message seem truthful. When placed in an annual report, a government report, the effect on the reader is of a truth.

A closer examination of the services provided by ORAC suggests that the governance discourse

within government in particular is at times mired in a lack of clarity about its own terms, in that, the use of the word governance, is sometimes confused with the statutory requirements for the effective management of an organisation whereby the administration including formal meetings, minute taking, the role of the Board and so forth take precedence over the need to build capacity. Sullivan (1996a) argues that much of the 'product' around governance training or capacity building focuses on the technologies of administration and management whereby concepts such as 'conflict of interest', financial literacy, strategic planning and conflict resolution, are founded in principles built upon western liberal democratic principles. The level of 'success' is then measured by the extent to which Indigenous Australians conform to the non-Indigenous ideal. Despite the intent to provide a legislative framework which would allow for ATSI people to incorporate aspects of their culture into the rules for how they do business, the Act requires ATSI people seeking incorporation under the ACA Act to conform to the legislative requirements of the ACA Act. The Act requires ATSI people to govern their corporations within a western democratic framework. The strategies implemented by ORAC seek to empower and instill in ATSI people the knowledge and the skills to be able to manage the corporate governance aspects of managing organisations.

7.4.2 NATION BUILDING DISCOURSES

An initial reading of the ORAC yearbook suggests that ORAC has the intent and the means to be able to assist ATSI corporations to achieve sound corporate governance practices. Whilst ORAC purports to provide services that enable and provide ATSI people with knowledge and information around managing corporate governance, what has emerged however is a view of ORAC as an instrument for furthering the cause of government accountability rather than as positive action to eliminate poor corporate governance. The strategies implemented by ORAC to enable ATSI people to govern and manage their organisations, do not necessarily meet the needs of ATSI people and communities in geographically isolated locations in that the strategies provided rely primarily on the use of technology. These strategies serve only to position ATSI in unequal relations and contribute to the discourse of failure even though the failure may not necessarily be the fault of ATSI people. The reliance on electronic communications and the internet and other forms of technology as the primary means of communicating with ATSI people particularly in remote areas where access to technology and the internet is very limited serves no real purpose. Targeted strategies by ORAC that rely on the Internet or technology give the impression that ATSI people have easy and readily available access to information

technology and that they have the knowledge and skills to be able to work with the technology. It is questionable as to whether ATSI people have access to such technology and are able to use the technology competently given that in many remote communities ATSI people are not able to speak or to read English let alone operate and understand technology. This brings into question the strategies adopted by ORAC to utilise technology as a means to get information out and or to communicate with Indigenous Australians about issues around their corporate governance practices. Further to this, the use of technology conflicts with the notion that face to face interactions with ATSI people and communities is a more effective way of engaging with ATSI people. The strategies implemented by ORAC to support and educate ATSI people and communities serves only to reinforce the notion that the problems of poor corporate governance rest solely with ATSI people and not ORAC, as ORAC have provided both training and information sessions aimed at Indigenous boards and committees to enable them to govern their corporations.

I found that even though ORAC have a mandate to support Indigenous incorporation, the rhetoric of government is at odds with reality and is rarely matched by implementation; this was seen in the number of contradictions in relation to accountability and transparency that surfaced. An initial reading of the ORAC yearbook suggests that ORAC has the intent and the means to be able to assist ATSI corporations to achieve sound corporate governance practices. What has emerged however is a view of ORAC as an instrument for furthering the cause of government accountability rather than as positive action to eliminate poor corporate governance. Whilst Indigenous Australians continue to be primarily represented and positioned as problems to be solved and not as active participants the type and level of engagement by the Australian government will continue to hinder the progress of ATSI people and impact on the relations between Indigenous Australians and government. While accountability and transparency are an essential element of good governance in any organisation, the calls for greater accountability and transparency amongst Indigenous organisations have resulted in the Registrar focusing mainly on its monitoring and regulation role at the expense of its education and support role. The increase in the statutory powers of the Registrar and the increase in funding and resources during the last decade, in particular, have not resulted in an increase in compliance with the Act. The drive for economic recovery has pushed appropriate education and training into the background. This has led to an increase in government spending on administrators because of a lack of compliance with the Act. This together with the suggestion that, improvements in community stability have

occurred because of the appointment of administrators has reinforced the notion that ATSI people are 'problems', and they are not capable of managing their own organisations. (ORAC) have a responsibility to help ATSI people as they are not capable of managing their own organisations and therefore must be told how to do this. These contradictions, have contributed greatly to the discourse of lack of capacity and lack of competence evident throughout the ORAC yearly publications. This brings into question the intent and the effectiveness of ORAC to provide services to support effective Indigenous corporate governance practices.

Through my experiences, I have found that Indigenous people are not always in a position of equal power nor do they necessarily have the capacity to engage in direct negotiations without some risk to their legitimate interests. The literature suggests that safeguards must be in place to ensure that the interests and rights of ATSI people are protected. Highly influential Studies such as the ICGP (2007) and the Harvard Project have argued strenuously, that there is evidence to suggest that education is itself a tool for liberation. The HREOC (2008) maintain that where necessary assistance should be provided in strengthening capacity to engage in negotiations. Improved capacity through education and training has the best potential to improve the currently dismal conditions in ATSI communities and can only be achieved when Indigenous people have access to appropriate education, training and skills, which value Indigenous cultural ways of knowing and doing. By investing in the capacity of the community to resolve and own these issues they place the community in a more powerful and central role to take control of their destinies. Put simply, the task of ORAC is to engage ATSI people as full and equal partners in the creation of educational programs and services. This thesis argues that well-crafted policy and consistently enforced policy can influence the way in which ORAC delivers its services to support Indigenous incorporation. By consolidating and building on the successes of governance and self-determination, ATSI people and the government have an opportunity to transform a historically troubled relationship into one which strengthens the ability of ATSI people to prosper.

7.4.3 POSITIONING OF ATSI PEOPLE

The ORAC yearbook contains within it a number of different and competing frames and discourses which have been conditioned and shaped by a range of historical and political factors, hidden agendas, social and economic factors as well as global reforms. These factors influence what is talked about and how it is talked about and as such create assumptions and rationales that authorise some policy solutions and not others. The annual reports produced by ORAC embody a range of views on matters such as race and gender, the manner in which these views are

encoded in the annual reports, both in the text and in the visual images play a part in forming the world-view or social ideology that legitimises and positions groups in society, such as ATSI people in unequal relations (Tinker & Neimark, 2011). The inclusion of a photograph of the Registrar, a white woman, on page xx of the ORAC yearbook reflects the embodiment of a benevolent white society that aims to 'help' an implicitly deficient Aboriginal community, hence taking up an ethical position that is beyond critique. These discourses rely on one-dimensional frame of reference, which are historically constituted and supported by legislation, and policy that reflect Western dominant ideologies. These ideologies have not always benefitted ATSI people.

Both the stories and the visual images contained within the ORAC reports contain within them a number of key themes which serve only to reinforce hegemony and the dominant ideologies surrounding ATSI people. Colonisation enabled this discourse and was used in Australia to know the Aboriginal 'other' and from this, a problematic construction of Indigenous Australians was developed. The problem with this discourse is that it held and continues to inform what is assumed to be 'scientific truths' (Said, 1995, p.46). Such a discourse justifies and legitimates the blaming of the 'Other' for their very otherness. Whilst Indigenous Australians continue to be primarily represented and positioned as problems to be solved, and not as active participants, the type and level of engagement by the Australian government will continue to hinder the progress of ATSI people and impact on the relations between Indigenous Australians and government. The stories and the images used in the ORAC reports becomes both a mirror and a lens for shaping social beliefs and can establish or reinforce stereotypes. People's perceptions are influenced by the stories they have been told or the stories they read, and depending on where you sit and where society recognises you the stories told can often be told from that of the settler or that of the minority.

This thesis is of the view that the ideological beliefs and values that guide the work of ORAC and the subsequent policy interventions implemented by the state have not been very successful in alleviating the ongoing and deepening underachievement crisis faced by many Aboriginal communities. This has impacted on the way in which ORAC have approached Indigenous governance. The implied deficit and further implication that the expertise to amend this problematic governance is external contributes to the uneven power differentials which characterise the discourse, and which Indigenous people often resist in subtle ways. As Kowral (2005) observes it is always non-Indigenous Australian that have something to offer Indigenous people, never the other way around. Elsewhere, she states '[t]he narcissism of governmentality is

universal', by which she means that across government agencies in the Northern Territory there is the sense that government policy can address *all* the problems which beset Indigenous communities (Lea, 2008,p. 227). The Office of the Registrar of Aboriginal Corporations needs to put into practice their rhetoric of increasing their commitment to incorporation and to truly accept responsibility for increasing Aboriginal governance.

Bourke (1994) argues that government agencies, such as ORAC, by their very nature seek to gain and maintain hegemonic control. They are not well placed to be agents of Aboriginal self-determination and their responses to Aboriginal demands have not contributed to the advancement of ATSI people as intended; instead, it has reinforced the dependency of Indigenous Australians on the government to solve their issues. These discourses serve to politicise, pathologise and mythologise Indigenous peoples reinforcing the perceptions that ATSI people are not capable of managing their own affairs and therefore require the intervention of government to solve their problems. This approach has been accompanied by a reliance on others to do things for them, which has characterised the administration of Indigenous communities by government and church missions. The end result of this is that ATSI people at the local level have not been involved in the decision-making process and are not included as the solution to the problem. This conflict with the literature around Indigenous governance which advocates that, Indigenous people must be involved in identifying solutions (ICGP, 2007). By not including ATSI people in these discussions the government continues to disempower ATSI people by paying lip service to the need for local level involvement and discussions in matters impacting on people's lives. The literature suggests that ATSI people must continue to seek their own resolutions to the problems they face as a community and that they must be involved in identifying the solutions. The literature suggests that there needs to be a change of mindset within government from an approach which manages dysfunction to one that supports functional communities. This can be achieved by including ATSI people as full and equal partners in the creation of programs and service delivery mechanisms and providing adequate resources for appropriate education and training to enable ATSI people to grow solutions at various levels of capacity or capability (HREOC, 2006). In this case, ORAC has not included ATSI people as equal partners in describing the problem and identifying solutions. ATSI people continue to advocate the importance of including ATSI people as full and equal partners in the creation of policy, programs and service delivery mechanisms. This approach is less effective in enhancing the organisational governance capacity of Indigenous corporations.

As discussed in the analysis chapter, the ORAC reports serve only to maintain and sustain dominant Western ideologies and ATSI voices and perspectives are excluded. The ORAC reports are produced by the government for government and are viewed as 'statements of authority'. Statements coming from a source endowed with authority are likely to be more accepted than one coming from a marginalised position. McQueen (2001), Tinker & Neimark (1997) maintain that public reports, such as the ORAC reports, are not passive narrators of an objective reality, but act as transmitters of cultural values and embody a range of views on matters such as race, and ideology. Originally designed to communicate particular information to the stakeholders, the annual reports are now being used, by various bureaucracies such as ORAC as a promotional tool to build relationships and to bring about change through the management of perceptions by appealing to the emotions of the reader. By appealing to the emotions of the reader, the reader is influenced into accepting certain sets of beliefs or ideologies about social relations which have been circulated as the truth. Goldstein (2005) makes the point that the annual report has become one of the most direct and controlled methods of shaping the minds and perceptions of various constituencies. The stories contained within the ORAC annual reports act as powerful tools of indoctrination because they continue to dictate and reproduce the views and ideologies of the dominant culture. The manner in which these views are encoded in annual reports, both in the text and in visual images are of interests to critical theorists who maintain that such reports play a part in forming the world-view or social ideology which naturalises and legitimises Indigenous peoples place in society. It is through these texts that ATSI interests are excluded and dominant mainstream interests and ideologies are articulated and institutionalised and produced and reproduced.

Although the preamble of the ORAC vision is expressed in broad terms that might support its extension to wider governance matters this thesis asserts that in practice the Act has only ever been used as a tool for addressing compliance. There needs to be a paradigm shift away from accountability and compliance towards supporting Indigenous governance (HREOC, 2007). While ORAC maintains its focus on compliance and accountability at the expense of delivering appropriate education and training, Indigenous Australians will continue to rely on government departments to 'solve their problems'. While accountability and transparency are an essential element of good governance in any organisation, the calls for greater accountability and transparency amongst Indigenous organisations have resulted in the Registrar focusing mainly on its monitoring and regulation role at the expense of its education and support role. The drive for

economic recovery has pushed appropriate education and training into the background. This has led to an increase in government spending on administrators because of a lack of compliance with the Act. This together with the suggestion that, improvements in community stability have occurred because of the appointment of administrators has reinforced the notion that ATSI people are 'problems', and they are not capable of managing their own organisations and therefore must be told how to do this. These contradictions, have contributed greatly to the discourse of lack of capacity and lack of competence evident throughout the ORAC yearly publications.

In this case, ORAC has not included ATSI as equal partners in describing the problem and identifying solutions. It is about ORAC doing something to ATSI people. These discourses serve to politicise, pathologise and mythologise Indigenous peoples reinforcing the perceptions that ATSI people are not capable of managing their own affairs and therefore require the intervention of government to solve their problems. This has impacted on the way in which ORAC have approached Indigenous governance. This approach is less effective in enhancing the organisational governance capacity of Indigenous corporations. ATSI people continue to advocate the importance of including ATSI people as full and equal partners in the creation of policy, programs and service delivery mechanisms. The Office of the Registrar of Aboriginal Corporations needs to put into practice their rhetoric of increasing their commitment to incorporation and to truly accept responsibility for increasing Aboriginal governance. The literature suggests that there needs to be a change of mindset within government from an approach which manages dysfunction to one that supports functional communities. This can be achieved by including ATSI people as full and equal partners in the creation of programs and service delivery mechanisms and providing adequate resources for appropriate education and training to enable ATSI people to grow solutions at various levels of capacity/capability (HREOC, 2006).

This thesis is of the view that ORAC has not contributed to the advancement of ATSI people as intended; instead, it has created a culture of dependence amongst Indigenous Australians rather than a culture of empowerment. This is reflected in the strategies and statements made by previous Registrars whereby ORAC is viewed as part of the solution of longstanding problems (ORAC, 2004/05, p. 7). The assumption that government has the answer for Aboriginal people underlies the approach taken by the ORAC; this is the same assumption of knowing better that lay beneath the colonialist strategies of the past. This is reflected in the strategies adopted by ORAC which appear to 'fix' the problem rather than 'grow' the solutions. This practice is a

derivative of the historic stereotypical perception that ATSI people and communities are not capable of solving their own problems and are dependent on others, in this case, government to solve their problems. The descriptions of many Aboriginal programs appear to mirror these perceptions, by describing the problem or describing Indigenous people and culture as the problem.

Van Dijk (1994) contends that in liberal discourse Indigenous people or minority groups constitute people who have problems and therefore need help from liberal whites. Such a negative representation of Aboriginal people perpetuates many of the features of welfare discourse common to the mission and welfare era which views ATSI institutions and capacity through the lens of a deficit model which explains and justifies outcome inequalities by pointing to supposed deficiencies within disenfranchised individuals and communities (Gorski, 2010, p.3; Brandon, 2003). The representation of ATSI people as deficit subsequently contributes to the uneven power differentials which characterise the discourse. If ORAC is to change this, they need to define and explain what they mean when referring to special needs, requirements and risks. Garvey and Newell (2004) contend that if poor or marginalised groups are to realise their rights they need responsive and accountable institutions. Responsive institutions have an obligation to provide an account of their actions (or inactions) and also the means to address failures. In order to be credible, processes for managing and resolving conflict and rights have to demonstrate accountability. When accountability works, citizens are able to make demands on powerful institutions and ensure that those demands are met.

This approach has been accompanied by a reliance on others to do things for them, which has characterised the administration of Indigenous communities by government and church missions. The end result of this is that ATSI people at the local level have not been involved in the decision-making process and are not included as the solution to the problem. This conflicts with the literature around Indigenous governance and the universal principles of sound corporate governance which advocates that Indigenous people must be involved in identifying solutions (ICGP, 2007). By not including ATSI people in these discussions the government continues to disempower ATSI people by paying lip service to the need for local level involvement and discussions in matters impacting on people's lives. The literature suggests that ATSI people must continue to seek their own resolutions to the problems they face as a community and that ATSI people must be involved in identifying the solutions.

This thesis argues that there needs to be recognition that the theoretical analyses and

subsequent policy interventions implemented by the state have not been very successful in alleviating the ongoing and deepening underachievement crisis faced by many Aboriginal communities. That imposed prescribed structures for the convenience of dealing with government is likely to be illegitimate and the cause of conflict and dysfunction within the community. Where the objectives of policy are politically embedded in relationships of political demand and fiscal supply they are like to remain a focus of oppositional relationships between Indigenous representatives and government. Through my own experiences, I have found that Indigenous people are not always in a position of equal power nor do they necessarily have the capacity to engage in direct negotiations without some risk to their legitimate interests. The literature suggests that safeguards must be in place to ensure that the interests and rights of ATSI people are protected. Highly influential studies such as the ICGP (2007) and the Harvard Project have argued strenuously, that there is evidence to suggest that education is itself a tool for liberation. The Human Rights and Equal Opportunity Commission (2008) maintain that where necessary assistance should be provided in strengthening capacity to engage in negotiations. Improved capacity through education and training has the best potential to improve the currently dismal conditions in ATSI communities and can only be achieved when Indigenous people have access to appropriate education, training and skills, which value Indigenous cultural ways of knowing and doing. By investing in the capacity of the community to resolve and own these issues they place the community in a more powerful and central role to take control of their destinies. Put simply, the task of ORIC is to engage ATSI people as full and equal partners in the creation of educational programs and services. This thesis argues that well-crafted policy and consistently enforced policy can influence the way in which ORAC delivers its services to support Indigenous incorporation. By consolidating and building on the successes of governance and self-determination, ATSI people and the government have an opportunity to transform a historically troubled relationship into one which strengthens the ability of ATSI people to prosper.

7.5 CONCLUSION

Although I have utilised decolonising imperatives to undertake this study, this is only one possible way to analyse the discourses that are contained within the ORAC yearly reports. The frames and the discourse highlighted in the report have been influenced by my own personal experiences and position as an Aboriginal woman. The inclusion of such stories is important tenets of an Indigenous pedagogy, as the stories in this research endorse the place of Indigenous ways of knowing, being and doing as an important and legitimate way of understanding and dismantling

colonisation (Smith, 1999). This analysis is aimed directly at the ORAC or ORIC as it is currently known, in the hope that ORAC can gain deeper insight into their own policy environment. It is hoped that the conclusions reached can have an impact on the way in which ORAC conducts its business particularly in light of the commitment by the government to a new Community Governance Improvement Strategy to build the capacity of Councils in Aboriginal communities to govern effectively. This is not an attempt to undervalue the achievements of those organisations that have achieved good governance practices rather it is an attempt to draw attention to the role of government and departments such as ORAC who have been charged with the responsibility of supporting Indigenous corporate governance. Nor is it an attempt to question the importance of accountability and transparency. It is my belief that if ORAC is to address the problem of poor corporate governance within Indigenous corporations then it must consider its own frame of reference and how this frame of reference has created and sustained the problem. Whilst the ORAC continues to perpetuate dependency rather than empowerment and to represent and position Indigenous people as needing the help of government, poor corporate governance will continue to plague both the government and Indigenous communities. Although this is one interpretation of how ORAC have represented and positioned Indigenous Australians the study will contribute to the small but growing literature on Indigenous governance and will add a vital contribution to current social practices. In doing so, this thesis contributes to an emerging theory of Indigenous nation building.

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