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Collaboration for the Public Good? The State and the Third Sector

Spann Oration

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I am delighted to present the 2008 Spann Oration which has been given, although not in every year, since 1983. It honours Richard Neville 'Dick' Spann, who was professor of Governance and Public Administration at the University of Sydney when I arrived in Australia to take up what I thought would be a three-year academic appointment at the University of New South Wales in 1972. Sadly, Dick Spann died, aged 65, in 1981. A few years later I moved into the Australian Public Service.

Dick was, by all accounts, a quiet achiever: clear and precise in his writing and painstaking in editing the work of others. For me, two things stand out. First that, by his own account, "got into the Public Administration game by accident" but found the subject "tolerable to live with, and from time to time rewarding". Second, as High Court Justice Michael Kirby remembers, he loved to tell students "whimsical stories of bureaucratic folly" in a manner so engaging that they created hysterical laughter. I am delighted this Oration remembers such a self-effacing and engaging teacher.[1]

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There are new and exciting changes occurring in the processes of governance, which have profound implications for public services. The provision of policy advice is becoming more contested. The views of officials now compete with those of political advisers, lobbyists and policy think-tanks. Community-based not-for-profit organisations advocate with increased professionalism. The implementation of policy is increasingly contracted out and delivered through the private and 'third' sectors with the public service retaining responsibility for oversight, evaluation and accountability.

At the same time, and significantly extending these developments, new configurations of policy influence are emerging. All demand new ways of doing things and new forms of leadership behaviour. At the heart of these changes lies the growing importance of collaboration – both across government agencies and jurisdictions, and between the public, private and not-for-profit sectors. In most instances governments, and their public services, remain as a hub, with spokes of community-based delivery. More occasionally genuine networks are emerging, with interconnected webs of political authority.

In Australia these trends are occurring within a Westminster form of government, set within a federal system, much (but not all) of it articulated in a written Constitution. Its distinguishing characteristics are: parliamentary sovereignty; majority party control of the executive; ministers accountable to parliament; Cabinet as the basis of collective responsibility; institutionalised opposition; and parliamentary conventions and rules of debate.

This system of representative and responsible government provides an institutional framework for managing political debate in democratic ways. Within this structure the Australian, State or Territory public services play a key role. Much of their influence is hidden, in that they provide advice to the governments of the day in confidence. Conversely, they work within an environment of political contest in which decisions are subject to parliamentary questioning and intense media scrutiny. The delicate balance between responsiveness to government direction and public service independence is a matter of ongoing public debate.

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[1] Percy Allan, "The Spann Orations: Introduction to the 1994 Oration", <u>Australian Journal of Public Administration</u>, Vol. 54, No. 1, March 1995; Hon. Justice Michael Kirby, "The Administrative Review Council – Early Days Remembered, Canberra, 12 December 2001.

Public servants provide support to ministers. They put forward non-partisan policy advice but, sometimes only after robust behind-the-scenes discussion, accept the directions set by government. They implement the policy decision of governments whether or not their advice has been taken. They draft the legislation, oversight delivery of the programmes and services, and provide the regulatory and compliance framework for governments.

The Australian Public Service (APS) with which I am most familiar, remains a professional, merit-based, career service. By that I mean that its senior public servants continue to be selected on the basis of competence and experience. They serve through changes in ministers and government. They are not recruited or promoted on the basis of party affiliation or political allegiance. The APS serves successive governments with equal commitment. So, to a large extent, do State and Territory public services. They accept the right of the executive to set directions and make decisions. They are accountable, through ministers, to parliament. Although there have been some unfortunate exceptions, the appointment and removal of the most senior public servants is generally not undertaken on the basis of political persuasion or ideological bent.

There have been some fundamental developments over the last 30 years, such as the emergence of politically-aligned ministerial advisers and the growth of a panoply of mechanisms to provide administrative review of decision-making. At the same time, in a form often characterised as 'new public management', public services have increasingly assessed their performance against the achievement of explicit outputs and outcomes, not just the ethical deployment of inputs. Nevertheless until now the traditional structures of Westminster have continued to frame the relationship between Australian governments, public services and the community sector. Greater change may beckon. I hope so.

Certainly, more complex institutional structures of governance are emerging. They take many forms. Some challenge the premises of representative government by embracing - albeit in a rather inchoate and somewhat reluctant manner – the idea of co-production in public policy. What I mean by that is the opportunity for those outside the formal structures of governance (individual citizens, community groups and contracted providers) to help design and deliver publicly-funded programs and services. Instead of being recognised merely as 'stakeholders', to be informed and consulted on government policy, there is the possibility for non-government players and third-party agents to become 'co-producers' in the construction and implementation of public good.

Private-sector and community institutions already deliver services to and on behalf of the government outside the traditional structures of governance. The key characteristics involve the allocation of government business, by public-service tender, with conditions set by contract. The goal is to harness market competition. Payment is made on the basis of outcomes and tenders awarded on the criterion of performance. The contracted organisations enjoy greater autonomy with respect to delivery processes than is normal in public-sector agencies. Crucially public services (the purchaser) remain accountable as managers for the ethical conduct of the contracted body (the provider).

In aggregate, not-for-profit organisations (particularly in the area of social welfare) have become more reliant on government funding. More importantly, and often the reason for their increased financial dependence, the form of government support has changed. Governments are now relatively less likely to provide submission-based grants to not-for-profit groups to support artistic endeavour, community sport, social welfare or the environment. Rather, they are increasingly attracted to awarding competitive contracts for the delivery of their programs. Instead of providing funding to organisations to pursue community goals which governments agree to be in the public interest, governments are

now more likely to tender out to community organisations for the delivery of public services. Herein lies both the potential for collaborative governance and for community discord.

Outsourcing by the Commonwealth and State governments began as a competitive form of procurement. It used the market to secure best value-for-money and better quality of service in achieving government outcomes. It required public-service contract management to guarantee required standards and to assess performance. However, the rationale of third-party delivery is now changing. Increasingly - it has become clear to me - the success of outsourcing depends upon ongoing collaboration between public service and delivery agents. It calls for relationship management, in order to facilitate social innovation and ongoing improvement over the long term.

A contractual relationship, initially based upon rigid compliance to prescriptive administrative guidelines, has the potential to be transformed by collaboration. Third-party delivery, particularly through third-sector organisations, has the capacity to evolve into partnerships in which public and community goals and values become not only more similar but more creative in delivering public benefit.

A variety of new network arrangements, many still in the early stages of development, suggests an evolutionary process is under way. Government, it would appear, is being transformed into an 'enabling state'. Sources of authority and influence are becoming more diffused. A 'shared power world' beckons. Some argue that the state is becoming weaker and 'hollowed out'. Sovereign decision-making, it is argued, is increasingly constrained by the growing importance of international regulatory and legislative frameworks and by the impacts of globalisation. Both serve to weaken national autonomy.

At the same time, it is suggested, government is reducing the scope of its public interventions, leaving more to the market. The commercialisation of government enterprise continues apace. Accompanying this, public services are becoming enmeshed in a series of horizontal networks which limit (even crowd out) their influence. They are left with only 'rubber levers' to achieve government objectives. Their influence is concomitantly weakened.

I am not fully persuaded by this interpretation. While the state certainly appears to be changing its mode of operation, I see no indication of a diminution in the desire of government to shape society. Rather government appears to be embracing new interventions. It now seeks to extend its influence to private behaviour in areas such as smoking, use of alcohol, sexual conduct, obesity and respect for the rights of others. The present financial crisis has brought renewed interest in forms of government regulation, intervention and even ownership.

Yet, whether or not the state is weakening, the structures of governance are widening, influenced by a complex interrelationship of organisations. A 'differentiated polity' is emerging, distinguished both by governance characteristics and institutional features. At the governance level public functions are being devolved from the centre, greater use is being made of outsourcing and markets are being established for the delivery of publicly-funded services. At the institutional level there is greater emphasis on outcomes-based public administration and more interest in the development of alternative systems for the delivery of government programs, including through the involvement of not-for-profit organisations.

What we are witnessing appears to be the evolution of a 'centreless society' in which public policy is made and delivered by an interdependent mix of government, markets and networks. The traditional hierarchical procedures, formal organisation and rules, procedures and conventions are being

replaced by institutional relationships in which sources of influence are fragmented. The exercise of power is becoming more diffuse.

More players get to play a part, including a diverse variety of social enterprises. For this reason I sometimes argue that the trend represents the democratisation of governance. More organisations are engaged with the political process, even as the number and influence of individual members of political parties wanes. Community-based organisations are accorded a greater role. It is a new process of governing, involving non-state actors, in which the boundaries between the public, private and third sectors are becoming more opaque and porous.

This is exciting. It opens new prospects. Not-for-profit organisations have the chance to play a more influential role. But I do not want to exaggerate the speed or substance of change. Public services remain the key to coordination. They retain positional authority. In exercising government, the bureaucracy still dominates.

Public services remain at the political heart of governance networks. They retain extensive powers. There are many reasons: their resource capability; their collective experience and knowledge; their legislative and regulatory authority; the financial control they wield through grants, loans and contracts; their access to influence; and their exercise of covert power (by which I mean nothing more sinister than the provision of advice to governments on the basis of confidentiality).

The processes of public-sector collaboration often continue to reflect implicit hierarchical relationships between the players. Their structure is often externally imposed by governments. To a significant extent, they decide on the form and extent of third sector representation. Their public services can exert power through access to information and their capacity to marshal resources. They benefit from direct access to government ministers.

Structures tend to maintain public service dominance. The real work of collaboration is generally done in committee or through secretariat, usually organised and dominated by the bureaucratic 'host'. Decision-making continues to reside with governments (although they are now subject to more contest, wider scrutiny and greater 'outside' influence). While the deliberative processes involving stakeholders can result in agreements, conclusions or recommendations, most government decisions are still taken outside the collaborative group. In short, neither public services nor governments operate within the networks of governance as 'just another organisation'.

Public services retain a distinctive role. That is appropriate. They have to discern and understand the nature of particular interests and advise government on their own assessments of the national interest (while accepting that it is the responsibility of government to decide that interest). Yet the environment in which they wield their influence is changing. Public services are playing out a traditional role in contemporary circumstances. Increasingly – outside or within government – their power is that of persuasion.

I am not naïve. There is a long way to go. The reality is that the integration of and innovation in the delivery of government programs is unlikely in traditional bureaucratic arrangements marked by hierarchical authority, administrative rigidity and a strong culture of control. The better alternative, as Jim Hyde has noted in examining the requirements for health system reform, is a 'pulsating organisation' which can reduce or increase its own role through collaborative contact, external interaction and facilitation of joint responsibility. The reality is that the integration of and innovation in the delivery of government programs is unlikely to come easily to public services.

My intuition and experience suggest that public services, and the governments they serve still exercise their persuasive talents in an environment characterised by asymmetrical power. It is not yet, perhaps cannot ever be, a partnership of equals. Community-based enterprises negotiate from a position of disadvantage. The obvious question is whether not-for-profit organisations should eschew entering into contractual relationships with governments, knowing that – no matter how politically protected they are by a compact or charter of civil engagement – they remain relatively weak when bargaining with the formidable strength of public service agencies speaking with the authority of government.

I think not. Community enterprises will always struggle by virtue of the fact that their values-driven ambitions have an infinite capacity to outstrip the resources available. A not-for-profit organisation, committed to community benefit, will find it difficult to harness voluntary labour, raise donations, collect fees or earn interest payments on investments that are sufficient to meet its expanding goals. As the global financial crisis transforms itself into a worldwide economic downturn, the challenge of raising sufficient funds to meet growing demands will preoccupy many social welfare institutions.

Yet just as governance, and the role of public services, has changed over the last generation so, too, has the framework of community enterprise. Whether supported by traditional philanthropy, or new-age 'philanthro-capitalist' social investment, the challenge for not-for-profit organisations in dealing with individual or corporate donors is not very different from their relationship to governments. The essential difficulty they face is that, whether they depend on philanthropic foundations, business enterprises or government agencies, they usually have to negotiate financial support and partnership arrangements from a position of relative weakness.

On occasions, relations may become adversarial. I do not believe that is typical. Governments, still less corporations, will not generally use their greater power to threaten or cajole. The essence of the danger for not-for-profits is not 'collaborative thuggery' by public servants intent on intimidation. The exercise of power is far more subtle and, for that very reason, more pernicious.

Community-based groups define themselves in terms of their vision. Values underpin, although not always with adequate strategic purpose, the ambitions that are articulated in organisational mission and goals. Values are their reason for being. Yet, in the relentless pursuit of the resources that can make their mission manifest, there is a danger that collaboration with funders – and particularly governments - can progressively undermine social intent.

The most profound danger is mission creep. It comes about in a variety of ways. The first is that, seeking to find new avenues of funding, the not-for-profit organisation widens or varies its objectives in order to meet the terms of government contracts. The drift may initially seem modest – still doing things for the poor, for instance, but framing those activities in the language of successive governments (as 'mutual obligation', say, or 'social inclusion'). Almost certainly the new mission still serves a socially-beneficial purpose. The challenge, particularly if the process is not carefully thought through, is that the original distinctive mission is weakened. The organisation becomes diverted.

There is a second form of mission creep that can occur in a government-sponsored 'purchaser-provider' relationship. Not-for-profit values are often expressed as much in the means as in the ends. Finding someone a job, counselling a dysfunctional family, providing assistance to a homeless person or supporting an indigenous enterprise may be tendered out by government to an experienced community organisation committed to the task. Unfortunately, the manner in which the service is to be provided may be transformed by administrative guidelines in ways that weaken the spirit – the very heart - of the community organisation. In part this is because government contract payments are usually based on outcomes which give scant acknowledgement to the processes of engagement that

many not-for-profit businesses hold dear. The need to achieve outcomes, and the rigours of an imposed compliance regime, may over time lessen the sense of community purpose that inspires commitment.

At least in such circumstances the not-for-profit institution wins the tender with eyes wide open. Worse, by far, is when governments, although committed to outcomes payments, seek for political reasons to intervene in the approaches taken by the not-for-profit delivery agent. For governments to constrain the administrative freedom of contracted organisations, and for public services to micro-manage their operations, spells death to social innovation.

There is a third variation of mission creep. This is when a government, appropriately seeking best value-for-money in the purchase of services from a provider, devotes inadequate attention to the capacity of the tendering organisation to deliver – and when a not-for-profit organisation, enthused by the opportunity to expand its horizons, over-estimates its ability to scale up from a local to a regional or national body. In such circumstances both sides feel that collaborative governance has faltered. Not unusually, it's the clients (that is, the citizens) who bear the costs of failure.

The danger I see (and fear) is that in a world in which access to the levers of democratic power is palpably unequal, not-for-profit enterprises may find themselves being reduced to minor partners in contracted governance. Their wonderful strength – devising community-based, socially innovative approaches to the delivery of public benefit – may be dissipated if their potential for critical insight and new approaches is undermined not by outraged opposition but by the welcoming embrace of governments. At worst, they come to resemble an arm of government.

Let me be clear. Now, as when I was a public servant, I am attracted to forms of government which are collaborative. In an era in which party political affiliation (and trade union membership) have declined, a robust and raucous squabble of community enterprises gives life to democratic process. In their influence on public policy, however, not-for-profit organisations need to be provocateurs as well as partners. Individually, and collectively, they need the inner strength of conviction that builds a civil society. They need to preserve the knowledge and belief that they can make their own futures without government funding and irrespective of government support. It would be a disappointment if, for the very best of reasons, the capacity of social enterprise to influence governance was lost. It would be a tragedy if contractualism stymied opportunities for collaboration.

It would be equally disheartening if the potential for partnership between the government and not-for-profit sector was lost. At its best, collaboration adds public value to the process of governance. It allows participants to learn alternative modes of behaviour and to explore new ways of doing things. It provides mutual benefit to participants, stimulates the development of an inter-agency or cross-organisational culture and helps create and manage knowledge.

Genuine collaboration in governance involves a recognition of interdependence across a network of institutional structures. It depends upon accepting mutuality of interest. It should not unthinkingly assume consensus. The parties will often come to the table with competing interests. Their different perspectives will only be resolved – indeed they will only properly be understood – by honest interaction and genuine negotiation. The entire process of seeking solutions needs to be iterative: not just reaching agreement on answers but jointly framing the questions and identifying the problems.

Through a process of integration, collaboration can bring a group of interested parties to mutually beneficial outcomes, sometimes in unexpected ways. I have been fortunate enough on occasion to be present at meetings during which collective deliberation has added creative value. It has fired

imagination beyond the capacity of any single participant. When collaboration works, the whole can be greater than the sum of the parts. The process of governance is improved. The key to success is to appreciate these characteristics and seize the opportunities they provide. To build collaboration requires public services to recognise the disproportionate power that they wield and consciously modify their approaches to mitigate these imbalances.

A culture of collaboration between the state and the third sector is crucial to the creation of a shared power world. Building that represents a daunting task. Yet there are even more exciting possibilities on the governance horizon. Opportunities are emerging for citizens, as individuals or groups of shared interest, to influence significantly the form in which public support is provided to them.

At the Commonwealth level, for example, jobseekers are being offered increased flexibility in negotiating individualised Activity Agreements with their Job Network provider (which may well be a contracted not-for-profit organisation). Supported by a pool of funds called an Employment Pathway Fund, individual jobseekers are now given the opportunity to tailor a mix of vocational and non-vocational work experience, educational and training activities to help them secure employment.

Similarly, in examining how best to manage housing estates, the NSW Department of Housing has explored ways to increase tenant and community involvement through neighbourhood boards. Community renewal, as Gavin McCairns has noted, is dependent on building partnerships which involve residents in decision-making. While public services retain responsibility for ensuring appropriate accountability for the expenditure of public funds, they must also base relationships with community organisations on trust. The goal is not to 'give power away' but to collaborate.

Perhaps the greatest progress in the area of individualised funding has occurred in Australia in the provision of government services to people with a disability. It poses complex and contentious issues, not only to the individuals who have the responsibility to determine their own services but to the community-based organisations who are often the chosen service providers.

The Victorian government, which has been a leader in the provision of individual support packages for disability services, makes it clear that recipients are able to choose and change service providers. Indeed, more radical reforms have been foreshadowed. While recipients of disability services can agree to have their funding go directly to a combination of service providers and financial intermediaries, there are also options (presently limited) for individuals to sign a deed of agreement directly to purchase the support they require. This presents challenges to not-for-profits, including those that might take the opportunity to move from being service 'brokers' to financial intermediaries. One citizen's flexibility and choice is a community provider's risk and insecurity.

Yet, by promoting a market for disability services in which program users are treated as customers, while advocating social justice through the active participation of citizens, individualised funding can make its pitch to both ends of the political spectrum. It rejects the 'one size fits all' approach to service delivery which, far too often, has served to turn not-for-profit providers into arms of government or extensions of public service bureaucracy in delivering programs to citizens.

As Charles Leadbeater has extolled, on the basis of UK experience, "personal budgets and self-directed services mobilise the intelligence of thousands of people to get better outcomes for themselves and more value for public money". The "self-directed services revolution", Leadbeater enthuses, offers a transformational approach to public service delivery. Yet to fulfil the revolutionary potential will require public servants committed to revolutionary intent, willing to share power with the communities and citizens that, through governments, they serve. It requires governments and their

public services to comprehend that the power they wield has in effect been ceded to them by communities and individuals. This, at its heart, is the 'contractual' basis of democracy.

The success or failure of collaboration lies not in the emerging network structures of governance nor even in the evolving systems by which influences are wielded. It calls for new forms of leadership behaviour, particularly on the part of the public servants who remain central to most discussions of public policy and administration. Instead of imposing agendas they need to negotiate them. Public servants are required who can stand in the shoes of those with whom they deal, can understand their individual perspectives or community interests and, by doing so, build trust. And it can be enhanced by a clear indication that public servants will on occasion be willing to champion the perspectives of the group or individual citizen – using their disproportionate power on behalf of collaborative decision-making. Not-for-profits, who will equally have to learn to walk these new paths, will need to be recognised as full partners.

Let me conclude. Genuine collaboration will not come about simply as a result of evolving networks of democratic governance or the changing role of the state. It requires public servants who, with eyes wide open, can exert the qualities of leadership necessary to forsake the simplicity of control for the complexity of influence. More explicitly, they need to operate with the same distinction outside the traditionally narrow framework of government as they have done for so long within it.

Public-service leadership has always been premised on the ability to influence. The challenge now is to extend the capacity from government structures to governance networks. While it will not be an easy path to travel, the prospect is alluring.

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