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BY: ATSIA SUBMISSION TO THE STANDING COMMITTEE ON
ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS

INQUIRY INTO INDIGENOUS EMPLOYMENT

Terms of Reference

That the Committee inquire into positive factors and examples amongst Indigenous communities and individuals, which have improved employment outcomes in both the public and private sectors; and

1. recommend to the government ways this can inform future policy development; and
2. assess what significant factors have contributed to those positive outcomes identified, including what contribution practical reconciliation* has made.

**The Committee has defined 'practical reconciliation' in this context to include all government services.*

RECOMMENDATIONS

RECOMMENDATION 1

That the Aboriginal Cadet Scheme – where Indigenous Australians are employed by a government department/entity during their university studies, working with the entity during the 3 month summer vacation - be supported and expanded by federal and state governments and the public sector.

RECOMMENDATION 2

That 'Two-Way Education' programmes be supported and their importance to the promotion of Indigenous Australian employment initiatives be acknowledged.

SUBMISSION

1. *Indigenous Cadet Scheme – ATSIC/Public Service Initiative*

The Indigenous Cadet Scheme under ATSIC proved to be an important contribution to ensuring positive opportunities for Indigenous Australians, with a complementary opportunity for non-Indigenous Australians to work alongside Aboriginal people. This is illustrated by its implementation by the Anti-Discrimination Commission, Tasmania under my leadership as Anti-Discrimination Commissioner.

1.1 The scheme involved the attachment of an Indigenous person to a government body (in this case, the Anti-Discrimination Commission), the arrangement being that they would study fulltime at university, and spend the summer vacation working fulltime at the government body, gaining experience related to their university studies and contributing to the output of the government body. Funding was met jointly by ATSIC and the government body.

1.2 The Anti-Discrimination Commission took on the first Aboriginal Cadet ever employed within the Tasmanian State Service, Ms Leah Brown, who commenced her legal studies the year she became attached to the Commission. Leah Brown is now in her fourth year at Law School (University of Tasmania).

1.3 During each summer vacation, Ms Brown took on a comprehensive file load of discrimination claims, carrying out administrative work, investigation of claims, and co-conciliation of claims. This meant that she had a practical insight into the operation of the law and its application, running alongside her theoretical learning of the law. Her work was crucial to the Commission's operations generally, and particularly due to inadequate funds and resourcing, which meant that her handling of a file caseload over the three month vacation period was crucial to the capacity of the Commission to maintain its considerable output. Ms Brown worked solidly as a member of the legal team, and indicated a strong capacity for using her initiative along with sustained hard work.

1.4 Over the three years of Ms Brown's employment as Aboriginal Cadet during my term as Anti-Discrimination Commissioner, not only was her contribution to the Commission important, but her development over the period was evident. In the first year of her employment, Ms Brown showed strong skills of organising material, and a good capacity for inculcating and exhibiting in their practical application principles of investigation of claims. In the second year, her capacity for analysis began to show itself and, in the third year, her analytical skills were marked. This was, I believe, due to her having the opportunity to work at the Commission (and hence be directly involved in the practical application of law) at the same time as studying law at university and hence commencing with and expanding her theoretical legal knowledge. This would not have been possible had she been confined to theoretical learning without the Aboriginal Cadetship placement with the Anti-Discrimination Commission.

1.5 This scheme deserves state and federal government and public service support, as it has multiple benefits, some being:

- providing the Aboriginal Cadet with the opportunity, as described above, to gain practical as well as theoretical experience and expertise in their field (in Ms Brown's case, law);
- providing the government agency with a valuable resource over the three month vacation period;
- ensuring that government agencies have an opportunity to experience first hand the contribution Indigenous Australians can make to public sector and professional operations;
- breaking down barriers and prejudices that may exist on both sides of the racial equation, because working alongside one another all workers (the Indigenous Cadet and fellow agency workers) can experience and observe first hand skills and contributions, rather than assumptions being made without being informed by concrete knowledge, experience and understanding.

1.6 Additionally, the scheme's implementation means that others in the public sector necessarily must be involved – in negotiations and discussions to identify Indigenous people to become Aboriginal Cadets, and to identify workplaces and positions that can properly be filled by Aboriginal Cadets. To illustrate, implementing the scheme in Tasmania involved:

- negotiation with relevant officials within the Department of Premier and Cabinet (or, federally, the Department of Prime Minister and Cabinet) to approve the implementation of the scheme;
- identification by the Office of Aboriginal Affairs (within the Department of Premier and Cabinet) of Aboriginal people who had or could gain entry into tertiary institutions, and who would be assisted in building their careers by being placed within a government department or entity;¹
- identification of a government department or entity where an Aboriginal Cadet could usefully and constructively be placed, to the mutual advantage of the Cadet and the government entity;
- negotiation with the government department or entity to ensure that a mutually satisfactory position description or duty statement could be devised for the position of Aboriginal Cadet;
- matching of the Aboriginal Cadet with the relevant entity.

¹ In the instant case, Ms Carol Jackson of the Office of Aboriginal Affairs is to be commended for her work on the Aboriginal Cadet scheme – it is due to her initiative and commitment that the scheme commenced, and that the Anti-Discrimination Commission was fortunate in gaining Ms Leah Brown as a member of the Commission's team. Ms Jackson also carried out the negotiations with the Department of Premier and Cabinet and with me as Anti-Discrimination Commissioner.

1.7 Each of these steps meant that government officials at various levels had to address their minds to the question of employment of Indigenous Australians and had an opportunity to appreciate the skills, capacities and abilities of the Indigenous Cadets. As well, it meant that all workers within the government entity to which the Aboriginal Cadet is attached had a similar opportunity. As an example, the Anti-Discrimination Commission operated on an egalitarian and 'flatter structures' philosophy and practice. The proposal for the Commission to become a part of the Indigenous Cadet scheme was discussed as an agenda item for all staff to be involved in the decision. This enhanced the awareness of everyone as to the professional qualities and capacities of Indigenous people who might come to the Commission as Aboriginal Cadets: it is important that everyone be regularly reminded of the qualifications and potential of minorities and, in this case, Indigenous Australians. Too often assumptions are made that do not reflect reality and that downgrade or overlook the skills and abilities of minorities. The Indigenous Cadet scheme contradicts these assumptions.

1.8 For all these reasons, the Indigenous Cadet scheme should be supported and its continuation should be confirmed, with financial support from federal and state governments.

2. *Indigenous Cadet Scheme - Additional Benefits: Conciliation of Claims, and General Enquiries, etc*

The Anti-Discrimination Commission's conciliation programme was run on the basis of there being *two* conciliators always, for the conciliation ('mediation') of claims of discrimination, where claims were not dismissed. Under equal opportunity/anti-discrimination legislation, the principle is that if claims are not rejected for investigation, or dismissed after investigation, then the first step in efforts to resolve them must be conciliation. Conciliation conferences are held by Anti-Discrimination/Equal Opportunity Commissions, providing an opportunity for resolution. If claims are not resolved through conciliation, then they are referred to a tribunal or court for hearing.

2.1 A unique approach was taken by the Anti-Discrimination Commission, Tasmania to run conciliations always with two conciliators – a Chief Conciliator and Co-Conciliator – ensuring that there was a mix of sex/gender and race/ethnicity in that combination. The Commission had a good spread of race/ethnicity in its complement of fulltime staff. At the same time, having Leah Brown as Indigenous Cadet meant that we were able, over the 3 month vacation period, to have her sit as a Co-Conciliator. In turn, this meant that all Commission conciliators had a chance to work together with an Indigenous Australian as a co-conciliator, and that parties (claimants and respondents) had an opportunity to have as their conciliators a team that included a non-Indigenous and Indigenous Australian.

2.2 Thus, there were multiple benefits, just as there were multiple benefits of having an Indigenous Cadet in terms of interviewing claimants and providing information by telephone to claimants, respondents and persons seeking general information about the *Anti-Discrimination Act 1998* (Tasmania) and discrimination issues generally.

3. *Indigenous Cadet Scheme - Conference, etc Participation*

In addition to the three month vacation period Ms Brown spent with the Anti-Discrimination Commission under the Aboriginal Cadet scheme, she participated in Equal Opportunity/Anti-Discrimination Commission conferences, held annually by Anti-Discrimination/Equal Opportunity Commissions around Australia. The tradition has been that there is a two-day conference of Legal Officers or Investigation and Conciliation Officers, preceded by a one or half-day conference of Indigenous Australian members of staff of these Commissions. This provides an opportunity for Indigenous Australians to discuss issues of race discrimination and other matters of direct relevance to the Aboriginal Australian community, and to bring these issues in distilled form to the two-day conference and thence to the respective Commissions around Australia.

3.1 Resources did not permit the Anti-Discrimination Commission, Tasmania, to employ an Indigenous Australian fulltime. Without the Aboriginal Cadet scheme, we would not have had a participant at the conference of Indigenous Australian members of Commission staffs.

3.2 In addition, having Ms Brown at the Commission meant that we maintained additional links with the Indigenous Australian community. Before she came to the Commission, we established and built good relations with all parts of the community, including the Indigenous Australian community. At the same time, having someone employed in the Commission who was a part of that community was vital, indicating as it did (amongst other things) that the Commission was serious about a practical engagement with the Indigenous Australian community, rather than engaging in 'only words'.

4. *Expansion of Indigenous Cadet Scheme*

It is important that the Indigenous Cadet Scheme be expanded, so that more Aboriginal Cadets can be employed in government departments and entities, and that the scheme be more broadly made known both to Indigenous Australians and government officials/entities.

4.1 I am aware of many Indigenous Australians who have gained entry to university or other tertiary institutions and who need the opportunity to run their theoretical learning alongside practical experience 'on the job'. I also am well acquainted with many Indigenous Australians who have completed their university studies but then do not have job opportunities where they can utilise the professional qualifications they have gained. They can be alienated and discouraged from applying for positions, because they have not had the opportunity to work in relevant fields during their university studies.

4.2 Many Indigenous Australian women lawyers are in this position, and they are being lost to government (and the private sector).² Many ultimately wish to work for Indigenous organisations. This deserves encouragement and support. At the same time, it is important that Indigenous Australians have a real opportunity to work with government departments and entities where they can gain skills that will advantage them in their future work (whether with Indigenous or non-Indigenous bodies). It is also important that non-Indigenous Australians have an opportunity to work together with Indigenous Australians, and the Aboriginal Cadet scheme provides just this opportunity.

4.3 The benefit is by no means 'one way'. It is a mutual benefit, and that Indigenous Australians may 'slip by' possible involvement with government departments and entities, going straight to Indigenous organisations to work is detrimental to non-Indigenous Australians, because we miss out on the opportunity provided by a scheme or schemes that ensure Indigenous and non-Indigenous Australians work alongside each other, with the benefits that cooperation provides, along with the building of mutual respect.

RECOMMENDATION 1

That the Aboriginal Cadet Scheme – where Indigenous Australians are employed by a government department/entity during their university studies, working with the entity during the 3 month summer vacation - be supported and expanded by federal and state governments and the public sector.

5. Two-Way Education as a Precursor to Indigenous Australian Employment

Through my work as a barrister in the Northern Territory, particularly with the Tangentyre Council and Housing Associations in Alice Springs, Nikinnuynu Council in Tennant Creek, and other Indigenous Australian organisations, I have become aware of the importance Indigenous Australians generally place upon their children and young people gaining 'European education'. I have been impressed by the efforts of the Indigenous Australian community to ensure that the learning of European education is enhanced through 'two-way education'.

5.1 The principle is that people cannot learn in a system which is 'foreign' or not their customary method of learning or system, if they do not have a firm grounding in their own customs, learning and identity.

5.2 Hence, particularly in the Northern Territory, the need for schooling that supports and enhances Indigenous children and young people's grasp, knowledge, learning and understanding of their own historical, cultural and sociological realities and origins is essential as a grounding, if they are to gain 'European' skills, knowledge and learning.

² See many examples in the 'Women's Voices, Women's Lives' series (edited by JA Scutt and published by Artemis Publishing, Melbourne).

5.3 A serious programme directed towards ensuring that Indigenous Australians have real employment opportunities will recognise that a firm grounding in education is essential, and that supporting and valuing 'two-way education' is imperative. Without this, many employment initiatives are bound to fail,

RECOMMENDATION 2

That 'Two-Way Education' programmes be supported and their importance to the promotion of Indigenous Australian employment initiatives be acknowledged.

Dr Jocelyne A. Scutt
Barrister and Executive Producer
12 May 2005