

**COMMONWEALTH PARLIAMENTARY INQUIRY INTO THE NEEDS OF  
URBAN DWELLING ABORIGINAL AND TORRES STRAIT ISLANDER  
PEOPLES**

**SUBMISSION BY THE EQUAL OPPORTUNITY COMMISSION OF  
VICTORIA**

**JANUARY 2001**

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The Equal Opportunity Commission of Victoria (“the EOCV”) administers the *Equal Opportunity Act 1995* (Vic) (“the EO Act”) which prohibits discrimination on a number of attributes, including race, in areas of public life. The EOCV’s functions include investigating and conciliating complaints of unlawful discrimination; and educating and informing the Victorian public on rights and responsibilities under the EO Act.

The EOCV welcomes this inquiry into the needs of urban dwelling Aboriginal and Torres Strait Islander peoples as it overlaps with the objectives of the EOCV which relevantly are to promote recognition and acceptance of everyone’s right to equality of opportunity; eliminate, as far as possible, discrimination on the basis of race; and to provide redress for people who have been discriminated against.

In our submission, it is important to recognise in addressing the needs of urban dwelling Aboriginal Australians that Aboriginal Australians continue to face discrimination disproportionately to the general population in areas of public life covered by the EO Act<sup>1</sup> and relevant to any person living in an urban area.

This submission is intended to provide background to the issue of discrimination faced by urban dwelling Aboriginal Australians who seek to participate in the areas of public life covered by the EO Act but whose opportunities to do so are limited due to discrimination. It also includes the EOCV’s responses to these issues.

**Overview of the incidence of discrimination against Aboriginal Victorians**

EOCV research shows that Aboriginal Victorians are more likely to experience unlawful discrimination than non-Aboriginal Victorians<sup>2</sup>.

From July 1996 to June 1998, the EOCV received 140 complaints of discrimination from Aboriginal Victorians<sup>3</sup>. Aboriginal Victorians make up 0.5 per cent of the Victorian population however complaints from Aboriginal Victorians constituted 2.7 per cent of the complaints received during this period.

Discrimination on the basis of race is the basis of the greatest proportion of complaints by Aboriginal Victorians (39 per cent), although other attributes such as

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<sup>1</sup> The areas covered by the EO Act are employment; the provision of goods and services and disposal of land, accommodation, education, clubs, sport and local government.

<sup>2</sup> “A Review of Complaints Lodged by Aboriginal and Torres Strait Islander People”, Internal Report, Equal Opportunity EOCV of Victoria, 2000.

<sup>3</sup> Of these, 4 were lodged by Torres Strait Islander people representing 3% of the of the total complaints in the study.

sex discrimination and sexual harassment, racial vilification, disability, sexual orientation, parental status and personal association are also often alleged in addition to race discrimination.

Most Aboriginal complainants, 59 per cent, allege discrimination in employment. Complaints in the area of the provision of goods and services account for 17 per cent of lodged complaints. “Services” is defined in the EO Act as including services provided by a government department, public authority, State owned enterprise or council but does not include education. Complaints in the area of education (government and non-government) constitute 12 per cent of complaints.

State and Federal Government departments and authorities are the third largest respondent group. Discrimination complaints lodged against Government departments and authorities were composed of 60 per cent of complaints lodged in the area of employment; 21 per cent in education; 13 per cent in goods and services; and the remainder in accommodation and rights to equality before the law.

### **Training and education of service providers**

The EOCV has a statutory duty to inform and educate the Victorian public about rights and responsibilities under the EO Act. However it is the on-going responsibility of organisations to implement an equal opportunity policy and train staff in providing services in a non-discriminatory and culturally sensitive manner. As Aboriginal and Torres Strait Islander peoples interact more frequently with government and non-government service providers, there is a greater need for organisations to demonstrate a commitment to equal opportunity principles and to be pro-active in addressing individual and systemic discrimination.

Equal opportunity training and education should also assist organisations to recognise practices and policies which have the effect of indirectly discriminating<sup>4</sup> against Aboriginal and Torres Strait Islander people or which contribute to systemic discrimination.

### **Complaints resolution processes**

The EOCV, in conjunction with a range of Aboriginal community organisations, has worked hard over the years to encourage Aboriginal Victorians to use the EO Act to enforce their rights and to seek resolutions to complaints of unlawful discrimination. The EOCV deals with complaints of unlawful discrimination by investigating and, where possible, conciliating such complaints. While the EOCV is required under the EO Act to assist complainants formulate and lodge their complaint, it cannot act as an advocate for a complainant.

EOCV research shows that when Aboriginal Victorians lodged complaints and had assistance from an advocate, such as a lawyer, union representative or friend, the number of finalised complaints was considerably higher compared to complaints that did not have the assistance of an advocate. This highlights the need, it is submitted,

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<sup>4</sup> Indirect discrimination occurs when a requirement, condition or practice is imposed that a person with an attribute covered by the EO can't comply with but which a majority of people without that attribute can comply with; and which is unreasonable: EO Act, Section 9.

for government and non-government service providers to have in place a fair and effective complaint resolution procedure that can deal directly with complaints of discrimination by Aboriginal and Torres Strait Islander peoples. There is a particular need for effective and culturally sensitive complaint resolution processes in the area of education, where the proportion of complaints by Aboriginal and Torres Strait Islander people is roughly double that of complaints by non-Aboriginal complainants.

As a complaints body which primarily deals with complaints by individuals, the EOCV is concerned about the extent to which individual claims can resolve systemic issues of discrimination against Aboriginal Australians. To address systemic discrimination, organisations should review complaints by Aboriginal and Torres Strait Islander People to determine whether recurrent complaints of discrimination indicate practices or conditions which have the effect of indirectly discriminating.

### **Partnership arrangements with Aboriginal Australians**

In recent years the EOCV has provided to Aboriginal Victorians the information and training necessary to tackle discrimination locally through the EOCV's Aboriginal Outreach Program. The program has visited Aboriginal communities in regional Victoria to discuss Victorian equal opportunity laws and complaint processes and to find out what kinds of discrimination are most commonly faced by Aboriginal Victorians. The program has also met with ATSIC regional councils to develop information and education campaigns and training programs for contact officers from key regional organisations such as co-ops, advocacy and community groups, and sporting and health bodies.

On-going consultation with the Aboriginal community assists the EOCV to improve its complaint resolution processes in view of the particular needs of Aboriginal complainants and to identify areas where public education is needed.