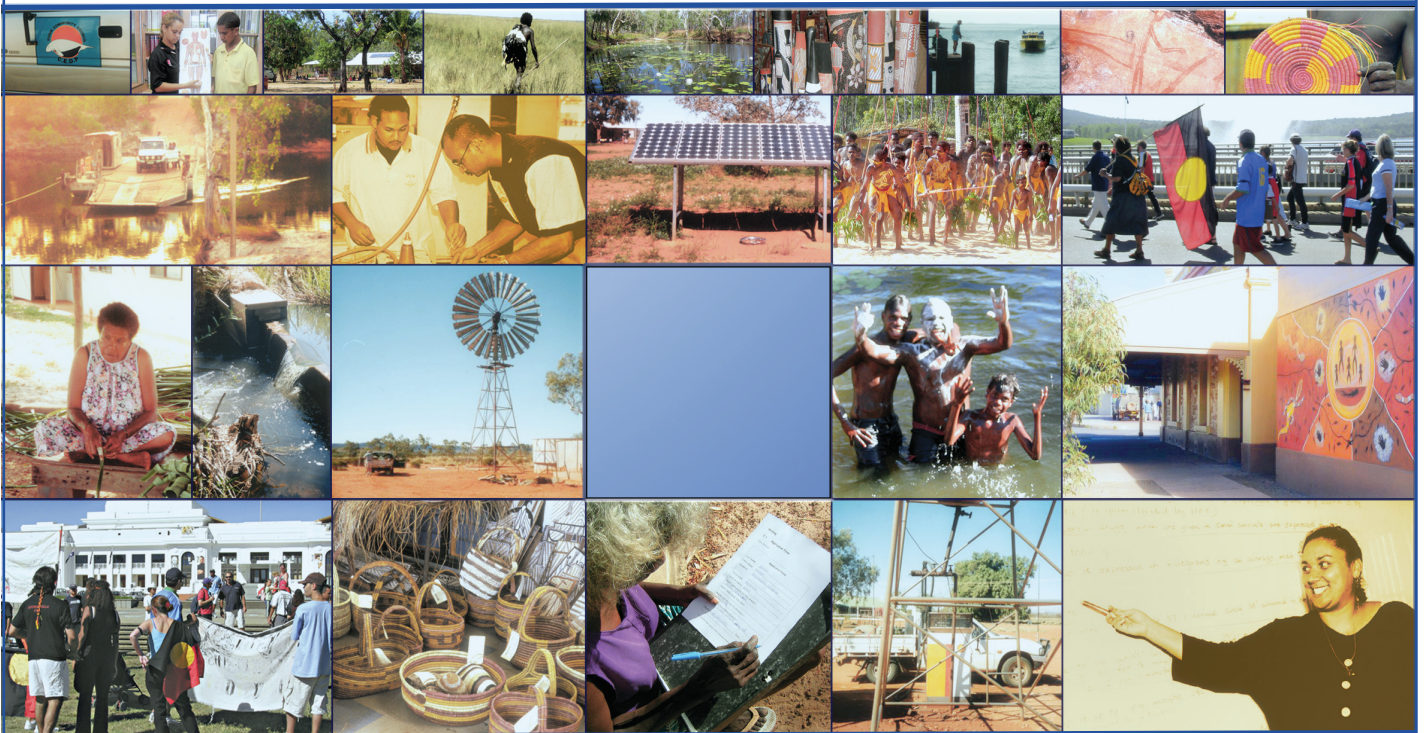


Submission to the Senate Community Affairs Committee Inquiry into Government Expenditure on Indigenous Affairs and Social Services in the Northern Territory

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INTRODUCTION

In this submission we seek to focus our comments on the following term of reference: the level of service delivery and of outcomes achieved in Indigenous communities in the Northern Territory in relation to the expenditure of both Federal and Northern Territory monies. We outline from the literature a number of key and apparently intractable issues that in our view have hampered the funding of Aboriginal communities in the Northern Territory on an equitable needs basis.

There are important structural reasons why the level of service provision and outcomes achieved in Indigenous communities in the Northern Territory are suboptimal in relation to the monies spent. For example, since the early 1980s (not long after self-government was introduced in 1978) numerous reports have identified that a major problem with funding of outstation communities in the Northern Territory exists because funding demarcations between the Commonwealth and Northern Territory governments remained unclear. Since the early 1980s reports have also shown that mining royalty equivalents and other land use agreement payments paid both to organisations and groups residing in areas affected by mining and for the benefit of Aboriginal people in the NT more generally have been used as a cost shifting or substitution funding regime. The system of funding has also failed to address the two key issues of capital versus recurrent expenditure and positive versus negative funding. The system is not geared to take account of Aboriginal aspirations, does not sufficiently fund Outstation Resource Agencies and does not adequately account for the small, dispersed nature of the more than 500 Aboriginal communities scattered throughout the NT. The sheer number and small scale of such communities raises problems of dispersed governance and diseconomies associated with small scale that would provide a deep challenge to any system of funding support. We deal with each of these issues briefly before turning to making some recommendations for the Committee's consideration.

We would like to make the caveat that 2008 has seen an historically unprecedented number of reviews in Indigenous affairs policy, certainly compared to any other period over the last 30 years that one of us (Altman) has undertaken research in this area. An attempt has been made to provide constructive input to numerous inquiries but clearly there is a limit to the comprehensiveness that can be invested in each. On this occasion we seek to highlight issues that have been raised and generally ignored, often because of the difficulties in addressing them..

LACK OF CLARITY IN DIVISION OF RESPONSIBILITIES BETWEEN COMMONWEALTH AND TERRITORY GOVERNMENTS

The lack of clarity in the roles and responsibilities of the federal and Territory governments in funding and providing services for Indigenous Australians is longstanding. Confusion and disagreement over the proper roles of the two governments dates back at least to the 1978 Memorandum of Understanding (in respect of Financial Arrangements between the Commonwealth and a self-governing Northern Territory) that divided responsibility for the provision of services to Indigenous communities in the NT. While the MOU stated that the NT government would take over responsibility for municipal and essential services in Aboriginal townships, the federal government retained control over funding for municipal and local government type services at outstations. This decision was criticised by the Northern Territory's Chief Minister, Paul Everingham, who argued that outstations should not be administratively separated from townships as in practice they were often closely associated (Everingham 1979).

Over the next decades confusion over the roles and responsibilities of the various levels of government persisted, as highlighted by numerous reports (see Australian Aboriginal Affairs Council 1991: 19; Commonwealth Grants Commission (CGC) 2001). Territory governments denied responsibility for providing some basic services to Aboriginal communities unless the Commonwealth government provided the funds (Havnen 1997: 85; Kelly 1997). The Commonwealth Grants Commission has acknowledged that the mix of Commonwealth and State mainstream and Indigenous-specific programs that are supposed to fund services for Indigenous people are 'not always well co-ordinated' (CGC 2001: 44). It notes that Australian federalism 'blurs service delivery responsibility between governments and has complex funding arrangements' which can result in 'cost shifting between levels of governments and between agencies at the same level of government' (CGC 2001: 57). It can create situations where 'services are not provided because one party has 'vacated the field', assuming another will provide the service' (CGC 2001: 57). For example, States and Territories may ignore the needs of some Indigenous communities in the belief that a federal agency will step in. And funds provided by the federal government to the States and Territories for Indigenous-specific purposes may be diverted to other programs. Indigenous-specific programs in functional areas such as health, housing or education—which are intended as additional services for Indigenous people on top of mainstream services—are made to carry the bulk of Indigenous clients because mainstream services are deficient, underfunded or inappropriate or inaccessible for Indigenous users (CGC 2001: 57).

Havnen (1997: 83) notes that Indigenous people and organisations have been arguing for an overhaul of these funding arrangements since the 1980s. Previous attempts to correct the situation, such as the Hawke government's National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders, have failed as governments have continued to argue about appropriate divisions of responsibility (see Kelly 1997). The recent review of the Northern Territory Emergency Response highlighted that there are still significant unmet service needs in Indigenous communities in the Northern Territory and recommended changes in the determination of financial assistance from the Commonwealth to other levels of government to ensure these needs are urgently met (Yu et al. 2008: 54).

THE PROBLEM OF SUBSTITUTION, INCLUDING FROM MINING ROYALTY EQUIVALENTS

Substitution funding has been and continues to be a major structural problem in funding for Indigenous communities. This is a significant problem with the treatment of mining royalties, and there is a substantial literature on this issue dating back over more than two decades. For example, in a study of mining royalties in the Northern Territory in 1983, Altman highlighted the concern that mining royalty equivalents were being treated as mineral rents rather than compensation. This allowed governments (and the Aboriginal and Torres Strait Islander Commission between 1990 and 2004) to view such payments as personal or community

income in assessments of community needs, reducing the perceived priority for government funding of these communities or the accessibility of government benefits. Such a situation means communities can be forced to rely on payments from mining companies to provide basic services and utilities, rather than such payments being viewed as private and compensatory and hence to be utilised at the discretion of recipients in areas affected by mining or else at the proper discretion of an all-Aboriginal Advisory Committee of the Aboriginals Benefits Account—the institution established to distribute a portion of these payments to or for the benefit of Aboriginal people residing in the NT (Altman 1983, 1984, 2000).

As noted above, substitution funding is also a concern in relation to different levels of government or different government departments, meaning that government transfers to Aboriginal communities are often referred to as supplements, whereas in reality they are substitutes for essential programs received by most Australians as citizenship entitlements. As a result there is insufficient funding for long-term Aboriginal economic development. This problem is not new. In the 1980s, the federal Department of Aboriginal Affairs and Northern Territory Department of Community Development spent almost all of their allocations on providing basic municipal services that were provided by local governments elsewhere in Australia (Altman and Dillon 1986). In addition, grants from the Aboriginals Benefit Trust Account (now ABA) subsidised the functional responsibilities of government departments such as the Department of Aboriginal Affairs (Altman 1984).

From 1990 to 2004 ATSIIC-funded organisations were often expected to administer the programs of other agencies (Altman 2000; see also Smith 1992). This has been a problem in the administering of some CDEP programs, particularly where CDEP organisations have been required to provide infrastructure and services in the absence of any other provider. Since the early 1990s, Altman has been noting this potential pitfall, where CDEP has been seen as a substitution rather than supplementary funding regime, allowing all levels of government to renege on their responsibilities to fund infrastructure and services in Aboriginal communities (Altman 1990, 2000). In recent years, accumulated reserves now totalling over \$150 million held by the Aboriginals Benefit Account have been increasingly used to fund services such as housing for Indigenous communities that should have been funded through government expenditure (Black 2007). This has been especially the case since 2006, when amendments to the *Aboriginal Land Rights Act* have allowed upfront payments to traditional owners of townships for 99 year leases to be sourced from the ABA.

A fundamentally new structural approach is needed that will reduce substitution funding so that appropriate funding based on Indigenous need can be sourced from public sources and quarantined for the purposes identified.

FAILURE TO ADEQUATELY DISTINGUISH CAPITAL FROM RECURRENT EXPENDITURE

The distribution of funding under the Commonwealth Grants Commission processes cannot take into account the historical backlog in need for capital expenditure in Indigenous communities that predated self-government in 1978. The principle of fiscal equalisation aims to ensure that State and Territory governments have equal capacity to meet the costs of 'standardising services' (Kelly 1997: 97; Morris 2005). The Commonwealth Grants Commission takes into account that it costs more, on average, to provide services to Indigenous people in the Northern Territory. But its funding formulae cannot adequately take into account the capital deficit in infrastructure (infrastructure backlogs) in Indigenous communities (Yu et al. 2008: 51; Kelly 2001: 97; see also Smith 1992: 26). This issue has never been addressed.

In 2005, Alan Morris, Chairman of the Commonwealth Grants Commission, highlighted that the principle of fiscal equalisation was not sufficient to provide 'catch-up' capacity to the Northern Territory (Morris 2005: 68). The recent review of the Northern Territory Emergency Response found that 'infrastructure backlogs and unmet service needs have played a major role in creating the significant dysfunction evident in many

remote Aboriginal communities in the Northern Territory' (Yu et al. 2008: 50). The Review Board made a number of recommendations (Yu et al. 2008: 54) that we strongly endorse and indeed have advocated in the past. Infrastructure shortfalls should be quantified and addressed; Indigenous specific special purpose payments should be made by the Australian government quarantined to meet such increasingly quantified backlogs in housing and infrastructure (\$3.2 billion), primary health care facilities, educational facilities and other community infrastructure needs of Indigenous communities; and Commonwealth and NT resources should be pooled not substituted one for the other.

While it is admirable that a combination of private and public funds are being raised in prolonged campaigns to fund community facilities, like swimming pools at Yuendumu, it is questionable if the poorest Australians should be asked to make such contributions especially given the documented beneficial health effects (and cost savings to the Australian state) of such facilities.

LACK OF DISTINCTION BETWEEN POSITIVE AND NEGATIVE RECURRENT FUNDING

In New Zealand in the 1980s, accountant and sociologist Douglas and Dyal (1985) combined their disciplinary expertise to make the following conceptual observation. Maori people are over-represented in certain areas of government expenditure like the criminal justice system and under-represented in others like education and state-provided superannuation. They labeled the former negative funding and the latter positive funding and noted that rather than crudely aggregating all expenditures on Maori (whether positive or negative) a distinction should be made between the two.

A similar methodology was used by Taylor and Stanley (2005) in their seminal study of public sector expenditures in the Thamurrurr region in the NT. Conversely, research by Wiltshire and Story (2006) for the NT government was able to merely aggregate recurrent expenditures to show that in 2004–05 nearly 50 per cent of NT government expenditure was related to its Indigenous population (that totals just over 30 per cent of the NT population). There has been little research on a Territory-wide basis that differentiates negative from positive funding, the former reflecting past disadvantage, the latter future prospects. Nor has there been research on a Territory wide basis that assesses recurrent expenditures on the basis of need. Subsequently, assessments of outcomes relative to expenditure on Indigenous communities fail to take account of the difference between positive and negative funding. This issue has been highlighted in Australia since at least the early 1990s (Smith 1992).

FAILURE TO ADEQUATELY ADDRESS INDIGENOUS ASPIRATIONS

Since the mid-1980s there have been calls to better engage Indigenous people in funding decisions and better tailor Federal and Territory funding towards Indigenous aspirations. In their commentary on funding for Aboriginal development in Central Australia, Altman and Dillon (1986) pointed to the need to better match funding to Aboriginal development aspirations. These aspirations are often assumed, but Aboriginal people may not share the same development ideology or cultural and economic values as the broader society.

This observation does not mean that Aboriginal people do not hold aspirations to change their economically marginal way of life. But government funding programs must recognise that Aboriginal society is heterogeneous, including very different values and associated social norms, different community types and different living situations. Even within township communities there are often different language groups, cultures and variable mixes of western and customary values that are today generally referred to as 'intercultural', neither essentialised modern nor essentialised tradition (see Merlan 1998, Hinkson and Smith 2005). Aboriginal aspirations for development may not be picked up using standard indicators such as formal employment and income (Altman and Dillon 1986 and subsequently many others).

These arguments have been made consistently over several decades, including in submissions to the recent Northern Territory Emergency Response Review (Altman 2008) and the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs Inquiry into Developing Indigenous Enterprises (Altman and Jordan 2008).

OUTSTATION RESOURCE AGENCIES

There has been much research over many years highlighting the important economic, social and cultural contribution of residents of outstation communities to the Australian national interest; and the ongoing problem of underfunding these communities. Since the early 1980s, Altman has identified problems of cost-shifting between government departments and agencies responsible for funding Aboriginal communities in the Northern Territory (Altman 1984).

Twenty-one years ago, the Blanchard Inquiry (1987) into the Aboriginal homelands movement conducted over a two-year period identified that while the federal government took the primary role in funding Outstation Resource Agencies and housing and municipal services, the States and Territories generally did not meet the Commonwealth's expectations in providing additional funding in areas such as health and education provision. In 1998 the first and last national review of Outstation Resource Agencies found this situation had essentially not changed (Altman et al. 1998), something that appears to continue today. In September 2007, in a hastily concluded Memorandum of Understanding between the Australian Government and the Northern Territory Government [in relation to] Indigenous Housing, Accommodation and Related Services, all responsibility for outstations was transferred by the Commonwealth to the NT government after 29 years, with only \$20 million per annum made available to meet the needs of outstations. This seems to have been a hastily conceived MOU, over-influenced perhaps by the Northern Territory Emergency Response and the looming federal election of November 2007.

SIZE AND SETTLEMENT PATTERNS OF THE INDIGENOUS POPULATION

The small size of many Indigenous communities in the Northern Territory, along with the mobility of the Indigenous population, creates particular challenges for service delivery. The expenditure of Federal and Northern Territory monies needs to better take these concerns into account. For example, as far back as the early 1990s, in a review of the CDEP program Altman highlighted the different effects of CDEP at different communities, according to size and remoteness region. In each community type (Aboriginal townships, outstations, cities, towns, town camps and other small groups like pastoral excision communities) CDEP was functioning differently, from income support at small remote communities to community development at larger settlements. Given the range of community types and the multiple objectives of CDEP (income support, community development and economic development) there was a potential for up to 18 different versions of CDEP guidelines and expected outcomes. In order to assess the effectiveness of the program, it was important to identify each community's primary objective for participating in CDEP. The CDEP scheme needed also to take into account the mobility of the Aboriginal population as this is central to Aboriginal culture (Altman 1990).

RECOMMENDATIONS

We make the following recommendations for the Committee's consideration:

- 1 An urgent assessment be made of the capital and recurrent needs of Indigenous people in the Northern Territory.
- 2 A new MOU is negotiated between the Australian and NT governments that provide a long overdue pathway to address these needs.

- 3 That the role of payments from land use agreements, especially in relation to mining activity on Aboriginal-owned land be reviewed and resolved.
- 4 That the distinction between needs-based recurrent funding and the historical legacy of capital shortfalls is clearly distinguished in popular and policy discourse and financial relations between the Australian and NT governments. In this process the inter-dependencies between capital and recurrent expenditures in ensuring development must not be overlooked or under-emphasised.
- 5 That the distinction between positive and negative funding is highlighted in policy making and outcomes assessment, and that the capacity of positive funding as investment and negative funding as remediation is highlighted. A broad policy framework is needed that encourages a shift of funding over time from negative to positive priorities.
- 6 That the complexity, diversity and differences in Aboriginal communities throughout the NT be recognised to ensure that a mistaken belief that a one-size-fits-all model of development support is not promulgated.
- 7 That a comprehensive inquiry of outstations is undertaken that examines the particular funding needs of these small dispersed communities and the role that Outstation Resource Agencies play in delivering services to these communities. This is especially important following the formation of geographically expansive shires in the NT from 1 July 2008.
- 8 That in any proposals to reform the CDEP program its suitability for small and dispersed communities is properly considered.

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