

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the provisions of the Indigenous Education (Targeted Assistance) Amendment Bill 2005

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Summary

This submission raises concerns about the future viability of independent Indigenous education and training due to the introduction of the *Indigenous Education (Targeted Assistance) Amendment Bill 2005* (The Bill). The Bill seeks to reduce funding to the independent providers (Independents) of Indigenous education by approximately \$4 million. The Bill also proposes to change funding arrangements for access to funds hitherto quarantined for the independent providers so that they will now be forced to tender for those funds against each other and mainstream registered training organisations. This means a new era of uncertainty for the Independents which could jeopardise the continuation of their success into the future.

The submission opens with a brief discussion of the historical location of Indigenous independent community-controlled education. Tranby Aboriginal College (Tranby) is then discussed in detail, in terms of its course delivery, student profile, funding and excellent retention and completion rates.

The evidence contained in National Reports to Parliament on Indigenous Education and Training are discussed which further highlight the success of independent Indigenous education providers in attracting and retaining students who deliver outcomes that outstrip those in all other educational sectors. These findings are then explained by reference to the importance of self-determination in Indigenous education and findings of the Royal Commission Into Aboriginal Deaths In Custody. The Commission's findings are shown to be relevant today as Indigenous custodial figures have risen from 14 per cent of the overall prison population in 1992 to 21 per cent in 2003, while engagement with the government vocational education and training sector is declining. The importance of international legal authority is then briefly discussed to highlight its importance to Indigenous peoples in their struggle to maintain models of best practice in education.

Finally, the *Indigenous Education (Targeted Assistance) Amendment Bill 2005* and the *Skilling Australia's Workforce Bill 2005* are discussed in terms of their destabilising effect on independent Indigenous education providers and the disadvantage they will create for Indigenous students now and in the future.

Historical location of Indigenous independent community-controlled education

The historic provision of education offered to Indigenous people since colonisation has been described as long and contradictory (Durnan and Boughton 1999:3). It was often concerned with efforts to suppress language, culture and promote assimilation. The type of education most offered to Indigenous people was under the control of government administration in the form of 'native' or 'welfare' programs (Durnan and Boughton: 1999:3).

It was not until the 1950s and 1960s that the work of Indigenous people and their allies working in the civil rights movement challenged this type of education. Tranby was the first Indigenous independent college to emerge in Australia under the Cooperative for Aborigines Limited. The documentation of its history indicates its establishment was due to the work of Indigenous people, the clergy and its socialist affiliates and sectors of the trade union movement (Goodall 1996: 306-7).

The Cooperative and the first training to be delivered from Tranby, commenced in 1958. A decade later, in the Northern Territory, the Institute of Aboriginal Development (IAD) was established against the backdrop of the 1967 referendum and the civil rights movement. With the assistance of Commonwealth funding during the 1970s further community-controlled education providers were established. All of the independent providers (Independents) who now make up the Federation of Aboriginal Education Providers (FIAEP) were established by the end of the 1970s (Durnan and Boughton 1999:3).

Tranby Aboriginal College, Tauondi Incorporated in Adelaide, Aboriginal Dance Theatre Redfern, and IAD are all subject to changes in funding mooted under the *Indigenous Education (Targeted Assistance) Amendment Bill 2005* (the Bill) which could threaten their existence.

Courses at Tranby Aboriginal College

Tranby originally provided courses to assist people with technical and trade skills. The Independents generally began by running mostly non-accredited courses in areas such as literacy, health, living skills and co-operative management. By the late 1990s with pressure arising from the Indigenous community for higher level education and the emergence of the TAFE sector the Independents were operating as registered training organisations delivering VET accredited courses (Durnan and Boughton 1999: 4-5).

Tranby today offers three nationally accredited courses: the Diploma in Development Studies in Aboriginal Communities (DSAC); the Advanced Diploma in Aboriginal Studies (AAS) and the Diploma in National Indigenous Legal Advocacy (NILA).

Students attend the College from across Australia and undertake their studies on a block release basis. This means that they attend the College for one week blocks of study six times per year over the two years of each course. Block release study greatly reflects the needs of Indigenous course participants, and is an exception to the mode of delivery offered in mainstream education.

Delivery of the courses is done through seminars, workshops and field trips with guest lecturers when time permits. The teaching is undertaken by Coordinators in each course together with guest lecturers. Most of the study is undertaken in an interactive environment with students working through role-plays, case studies and student presentation.

Student profile

Students attend the College from Aboriginal and Torres Strait Islander communities across Australia. Most of the students attend from remote and regional communities. The majority of students are aged from 35 years through to their sixties. Many of these students have limited formal secondary education. Over 90 per cent are embarking on post-secondary education for the first time. Tranby has consistently attracted a balance of male and female Indigenous community members, many of whom are leaders, managers and educators within their communities.

Nature of funding

Tranby receives funding from the Indigenous Education Strategic Initiatives Program (IESIP) and through IESIP it receives an allocation of the National Indigenous English Literacy and Numeracy Strategy (NIELNS). The State funding at present represents a very small amount of Tranby's overall funding and grants minimal funds through State Contracted Training Provision (CTP). Tranby's experience with accountability and reporting processes determined by New South Wales State Department of Education and Training (DET) has been onerous and difficult with inconclusive results. Advice from the Commonwealth Department of Education, Science and Training (DEST) that this funding may be administered through a Commonwealth/State agreement will present anomalies for a College such as Tranby that attracts students from a national base.

Students attend the College through the provision IESIP funding which includes the provision of Away from Base funding that enables students to fly interstate to attend the College. The funding is provided pursuant to the *Indigenous Education (Targeted Assistance) Act 2000*.

As the bulk of Tranby's funding comes from the Federal Government in the form of IESIP supplementary funding, it is allocated according to student retention and module completion rates. It is also allocated according to figures given to the funding bodies from up to two years prior to the funding allocation, as the outcomes are reported to the State office, which passes them to the National Centre for Vocational Education Research (NCVER) which then turns the data over to the Federal Department. So by the time the allocation of funding is granted, its relevance is outdated. However, the immediate concern for Tranby is the proposed Commonwealth/State funding arrangement to replace the NIELNS TPA funding which represents at least 75 per cent of the College's operating funds.

Retention rates at the College

Successful completion rates achieved by Tranby are far higher than mainstream education benchmarks set by Federal and State Governments. Not only have the retention rates been consistently between the range of 75-85 per cent, the level of qualification at Diploma level exceeds that of NSW TAFE that struggles to achieve Certificate III level for Indigenous participants. Last year in the NILA Course, the retention rate of Diploma level graduating students was 92.5 per cent.

The trend of these figures is reported annually to Parliament. In the National Report to Parliament on Indigenous Education and Training 2001 it states that most improvements in retention and completion rates occurred in the sector controlled by Indigenous organisations and communities (National Report: 2001).

Tranby as part of this sector, prides itself on delivering these courses in a culturally sensitive environment which places the principle of self-determination at the forefront of its operation and delivery.

These retention rates are, however dependent on the specific program format, the provision of student support, tutorial assistance and the unique mix of culturally appropriate learning and teaching blended with accredited educational facilities provided by the College.

In other words, the main operating funding from IESIP guarantees that Tranby delivers the successful outcomes that make it the model of best practice in the industry.

Evidence that models of community-controlled education provision work: National Reports to Parliament on Indigenous Education and Training

The most recent 2003 Report states that ‘educational equality is some way off for Indigenous Australians’ and that recently there has been a sharp decline in the number of Indigenous VET students in the government system (National Report 2003: ii-iv). It reported further that compared to other VET providers, Indigenous controlled organisations indicated the best progress in literacy and numeracy in recent years, and

that completion rates in this sector although down from 57.5 per cent in 2000-2001 were well above the overall national Indigenous rate of 54.7 per cent (Ibid iv-xix).

Clearly this indicates that the independent sector is succeeding; that what is in place is working, and that it outstrips the standards delivered by other providers, including government.

The importance of self-determination in education

Self-determination is widely recognised as a fundamental aspiration for Indigenous people. It is a complex principle but several points are relevant in the context of Indigenous education: first, that Indigenous peoples have a right of self-determination; second, that other rights depend on this basic right; third Tranby and the Independents offer education that assists students to understand their rights and advocate for their defence; and fourth the programs offered by Tranby are themselves an expression of the exercise of these rights.

One of the first places to look for commentary on self-determination and Indigenous education is the Royal Commission Into Aboriginal Deaths In Custody (RCIADIC). The Commission was established in 1987. By its completion in 1991 it had investigated the deaths of 99 people and delivered a five-volume report, regional reports, and a two-volume report on underlying issues from Western Australia (Cunneen 1997:3). Most of the recommendations were supported in a national response by State and Territory governments and specific funding was set aside by the Commonwealth for their implementation (Boughton and Durnan 1997:1).

Royal Commission findings relevant to Indigenous independent education

The Commission found that Indigenous people were massively over-represented in Australia's custodial systems, and that to address this issue reform had to take place in the criminal justice system, but governments also needed to address the problem of the fundamental reason why Indigenous people come into contact with the criminal justice system – the underlying issues relating to over-representation (RCIADIC Volumes 1-5).

The Commission found that a lack of formal education was a major factor in the disproportionate representation of Indigenous people in custody and noted that adult education represented a ‘second chance’ for many who regarded it as fundamental to taking control of their lives (RCIADIC Vol.4: 338). The Commission drew a strong link between self-determination and adult education and stated that appropriate education and training programs should be developed to assist the greatest number of people possible.

All of the Independents were mentioned positively in the Commission’s report with Tranby being described as ‘a pioneer in Aboriginal adult education’, providing education that was described as ‘highly responsive’ to Aboriginal needs and learning styles (RCIADIC Vol. 4: 343). The Commission stated further that even if duplication of courses occurred by delivering through such an independent provider, it was worth it because ‘Aboriginal people are trying to catch up on past disadvantage’ (RCIADIC Vol 4: 343).

The Commission also found that it would be appropriate for Indigenous students enrolling in such independent colleges to have the same financial support through Abstudy as those students attending in the mainstream (RCIADIC Vol. 4: 343). It then went on to make **Recommendation 298**, that:

‘(a) Governments support Aboriginal community controlled adult education institutions and other institutions which provide a program of courses which have the support of the Aboriginal community’ (RCIADIC Vol 4: 345).

In supporting the Independents, the Commission was advocating that the principle of self-determination be upheld in an educational context. Interestingly, the Commission stated that community-controlled organisations ‘receive the most broad-based support from the Aboriginal people as the appropriate agencies to address concern’ and that they had ‘overwhelmingly...stood the test of time and are by far the most effective and informed means by which Aboriginal opinion may be articulated’ (RCIADIC Vol 4: 6). It was against this backdrop that **Recommendation 188** was made:

‘That governments negotiate with appropriate Aboriginal organizations (sic) and communities to determine guidelines as to the procedures and processes

which should be followed to ensure that the self-determination principle is applied in the design and implementation of any policy or program or the substantial modification of any policy or program which will particularly affect Aboriginal people' (RCIADIC National Report 'Overview and Recommendations' 1991: 78).

Relevance of Royal Commission's findings today: recent custodial figures and educational opportunities

The findings of the Commission are as relevant today as they were in 1991. Recent custodial figures show that as of June 2003 Indigenous imprisonment rates were 13 times higher than the rate for non-Indigenous persons (Australian Institute of Criminology 2004:1). Indigenous prisoners comprise 21 per cent of the total prisoner population, an increase from 14 per cent in 1992, the year after the Commission released its final report (Ibid). These are alarming figures considering that Indigenous people make up little more than 2 per cent of the overall population (Australian Bureau of Statistics 2005).

The underlying issues that bring Indigenous people into custody are the same today as they were in the early 1990s, particularly in relation to the lack of educational opportunities. It has been reported that recently there has been a sharp decline in the number of Indigenous VET students in the government system (National Report 2003: ii-iv).

Keeping Indigenous people out of custody requires governments to address the issue of the type and quality of education offered to Indigenous communities. To attract and retain Indigenous people within the education system, what is offered must be responsive and sensitive to the needs of communities and delivered in a culturally affirming environment. Real success at doing this has been the strength of the Independent colleges.

Tranby and the Independent providers have delivered such education with great success since the 1950s. Tranby's success is due largely of its adherence to the principle of self-determination, which is not simply a catch-phrase of 'do-gooders'. It is an inherent right of all peoples and its international significance to Indigenous

education warrants discussion, to locate it in a human rights framework to which adherence by governments is essential to uphold the rule of law.

Indigenous education and self-determination: International authority

Raising the issue of international authority is useful to highlight the models of best practice to which member States aspire. Internationally recognised rights confirm the aspiration of independent colleges like Tranby to be self-determining.

The principle of self-determination is affirmed by Article 55 of the Charter of the United Nations, and enunciated by Article 1 of both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). It is worded thus:

‘(1) All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.’ (ICCPR; ICESCR Article 1).

The Draft Declaration on the Rights of Indigenous Peoples (Draft Declaration), still under consideration by the UN Commission on Human Rights, replicates the above but rewords it, simply by replacing ‘all peoples’ with ‘Indigenous peoples’ (Draft Declaration Article 3). Part IV of the Draft Declaration upholds the right of Indigenous peoples to establish and control their educational systems and institutions; while maintaining that their culture, histories and traditions be reflected in all forms of education and public information (Draft Declaration Articles 15 and 16).

The clearest representation of Indigenous peoples’ aspirations in education is probably the Coolangatta Statement on Indigenous Peoples’ Rights in Education (Coolangatta Statement). It represents a clear and concise position of Indigenous peoples’ desire to determine the course of their education and describes itself as ‘a living document which address the educational rights of Indigenous peoples now and into the future’ (Coolangatta Statement: Preamble).

The Statement articulates the dissatisfaction with the assimilationist nature of hitherto offered education. It states that the ‘failure’ of Indigenous peoples to stay in mainstream education should be viewed for what it is – rejection of the status quo. This sentiment has been expressed by other commentators in Australia (Beetson 1997; Boughton and Durnan 1997). It further calls upon States to uphold international conventions to which they are a party.

The Federal Government, under the *Indigenous Education (Targeted Assistance) Amendment Bill 2000* has targeted the Independents with the sole purpose of reducing and possibly denuding them of funds. The Government may argue that it is not legally bound to fund such organisations but it should implement policies and laws that uphold the spirit of international conventions to which Australia is a party.

The International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) upholds the right of all peoples to education and training (ICERD Article 5 (e)(v), and declares that each State Party shall review, amend and rescind policies, laws and regulations which have the effect of creating or perpetuating racial discrimination (ICERD Article 2 (c)).

Australia is also party to the Convention against Discrimination in Education. That convention clearly states that discrimination includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion has the purpose or effect of depriving any person or group of persons of access to education of any type or at any level (Article 1 Paragraph 1(a)). It further states that ‘education’ refers to all types and levels, and includes access to education, its standard and quality and the conditions under which it is given (Article 1 Paragraph 2).

The submission draws attention to international conventions to make it clear that self-determination is very much a universal concern, and a fundamental human right. Self-determination is born out of an international human rights framework and its adherence is vital if Indigenous educational outcomes are to be improved.

The Indigenous Education (Targeted Assistance) Amendment Bill 2005

The latest threat to funding has arrived in the form of the *Indigenous Education (Targeted Assistance) Amendment Bill 2005*. Funding is released currently pursuant to the *Indigenous Education (Targeted Assistance) Act 2000*. The main provisions of the Bill provide for a decrease in the appropriation of funding to Indigenous providers of education by a net \$3.7 million over 2006 to 2008.

The Bill will transfer \$10.9 million of funds otherwise provided to the four independent Indigenous community-controlled education providers to be spent under the *Skilling Australia's Workforce Bill 2005*. However it is clear that the legislative package is more concerned with de-funding the Independents, than funding them. Why else would their budgets be tossed into the air for open tender?

Tranby, the Institute for Aboriginal Development (IAD), the Aboriginal Dance Theatre Redfern, Tauondi Incorporated and every other registered training organisation in each State and Territory will now be required to compete against each other for funding in a joint funding pool hitherto targeted for Indigenous education.

There is no explanation as to why the Government seeks to change existing funding arrangements and/or why it is placing the Independents in a position of needing to explain why they exist. The agreed policy objective of all governments including State/Territory and Commonwealth, that is improvement of Indigenous educational outcomes, are all jeopardised by these Bills. For Tranby specifically this proposed change to funding arrangements threatens its existence as immediately as 2006.

The Bills are of great concern to Tranby which has a rich history of success in the provision of quality education that is offered in a culturally sensitive manner and learning environment. By reducing funding and leaving what is left to open tender, the Federal Government's message is clear: that there is little value attached to the work of Tranby and the Independents, and that Indigenous cultural methods of teaching cannot deliver appropriate outcomes to Indigenous peoples.

What disadvantage will Indigenous students face from the Bill?

The Parliament and the Senate must address the issue of what disadvantage will be faced by Indigenous communities under the current proposal. The Senate should satisfy itself that no individual or community will be worse off should this legislation be passed.

The Government is proposing to cut financial assistance by reducing close to \$4 million of funds from the sector that has delivered to date the best results in attracting and retaining Indigenous students. The Government might state that additional funding will be made available for remote communities' tutorial support, but it comes at the cost of de-funding the Independents. It is also noteworthy that the proposed Bill has the capacity to prevent interstate students attending Tranby to access education specifically designed to meet their needs.

It is important to stress that all governments need to provide significantly more resources for Indigenous education to reduce the effect of historic disadvantage and social dislocation on these communities throughout Australia.

Reducing funds to colleges like Tranby will have a detrimental effect upon Indigenous students and communities and may ultimately come at a huge cost to government. Custodial figures are rising sharply while at the same time Indigenous people disengage with government vocational education and training.

Conclusion

Providing equality for Indigenous people in the education system will not be delivered by the imposition of the *Indigenous Education (Targeted Assistance) Amendment Bill 2005*.

Indigenous education requires investment at a rate greater than that for non-Indigenous people because government needs to address past and present disadvantage faced in communities and allocate funding where it is most likely to be taken up by Indigenous students: in the independent sector.

The funding allocated to independent colleges should be recurrent and secure, based on maintenance of its highly successful outcomes. Without certainty of funds the disengagement of Indigenous people with this sector is assured.

The education of Indigenous people should be invested in carefully and appropriately with attention to what Indigenous communities need and with their express consent. It should not be left to the whim of government to auction off funding for Indigenous education in a tender process that will reward the lowest bidder.

The imposition of the Bill, the diminution of funds and the tender process are all indicators of a government agenda to move Indigenous education into the mainstream as a cost cutting measure. There is no commitment shown to truly improve Indigenous educational outcomes. In fact, such a move is unlikely to improve participation rates of Indigenous people in the education system. A more likely scenario is that the history of Indigenous people's lack of engagement in education will be replicated.

In the meantime the existence of Tranby and the community-controlled sector which is the most successful model of attracting and maintaining Indigenous students is threatened.

The current level of IESIP funding received at Tranby has enabled the College to provide Diploma level courses to Indigenous communities across Australia and the Torres Strait Islands with retention rates and successful outcomes that far exceed those achieved by mainstream education providers

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