

Chapter 4

Term of Reference (b)

The impact of state and territory government policies on the wellbeing of regional and remote Indigenous communities

The role of state and territory government policy

4.1 This term of reference covers a significant and wide ranging area of policy impacting on the wellbeing of regional and remote Indigenous communities. Of greatest impact and concern for the committee are policies concerning housing, the delivery of essential services, infrastructure, policing, health and education.

4.2 The agreements and frameworks governing the implementation of these policies between the Commonwealth, and state and territory governments are complex, and vary across states and territories. There is also a high level of interdependency between state and territory and Commonwealth policies, however there is no single government agency or department charged with coordinating and implementing policies relating to regional and remote Indigenous communities. The committee notes however that the Council of Australian Governments (COAG) is the peak intergovernmental forum in Australia for coordinating Indigenous affairs.

Issues raised

Housing

4.3 During the committee's inspection visit to Western Australia the issue of inadequate housing was continuously raised as the number one issue affecting the community as it impacts on general health, emotional wellbeing, the hiring and retention of essential staff, school attendance and performance, employment capability, alcohol and substance abuse, instances of violence, sexual abuse and child abuse and neglect. Rio Tinto, in their submission, state that:

Perhaps the biggest issue for regional and remote communities is the lack of housing...Regional and remote Indigenous communities are experiencing a housing crisis. Overcrowding is common and is having a severe impact on child safety, general health, living conditions and employment capability.¹

4.4 As Amnesty International Australia points out in their submission, on a recent visit in 2006 the United Nations Special Rapporteur on adequate housing, Miloon

1 Rio Tinto, *Submission 20*, p. 33.

Kothari, concluded that 'Australia has failed to implement its international legal obligation to progressively realize the human right to adequate housing to the maximum of its available resources, particularly in view of its possibilities as a rich and prosperous country'.²

4.5 The committee notes that the lack of adequate housing has resulted in chronic overcrowding in Indigenous communities. For example, the committee heard that in Balgo there are approximately 30 satisfactory houses for a population of 400, which is an average of just over 13 people per house.³ Similarly, in Alice Springs the Tangentyere Council manages 198 houses for approximately 1 600 to 2 000 residents, an average of 8-10 people per house.⁴ The situation was also comparable in Derby where 'open house' homes are common with a varying occupancy of up to 18 people and groups of up to nine young people sleeping in the one room. As John Oswald concluded:

Only the exceptionally strong of any culture could reasonably overcome living in such dysfunctional circumstances to achieve in life.⁵

4.6 Issues related to housing are not restricted to remote communities. Several submissions are keen to point out the housing crisis in regional areas, especially as it relates to mining activities in regional towns. As Rio Tinto states:

Government needs to be aware of just how crowded these regional towns are, particularly those near mining operations. For existing and resident Indigenous population, this compounds problems they are already facing and locks them out of the housing market, particularly if they are not associated with their region's mining operation.⁶

4.7 Organisations in Fitzroy Crossing expressed particular concern regarding the impact of the lack of housing on their ability to attract and retain quality staff for essential services and community development programs. For example, the committee heard from two organisations in Fitzroy Crossing that although there are funds allocated for essential positions there has been no provision for housing the staff and so many of the positions go unfilled.⁷ In addition the committee was advised that many approved and funded health programs are on hold in the region as there are no housing options available for staff.⁸

4.8 Concerns were also raised in regards to the poor maintenance of existing housing. As the National Rural Health Alliance stated:

2 Amnesty International Australia, *Submission 16*, p. 26.

3 Committee inspection, Balgo, Thursday 21 August 2008.

4 Tangentyere Council, *Submission 31*, p. 15.

5 John Oswald, *Submission 34*, p. 2.

6 Rio Tinto, *Submission 20*, p. 33.

7 Committee inspection, Fitzroy Crossing, Tuesday 19 August 2008

8 Committee inspection, Fitzroy Crossing, Wednesday 20 August 2008

In remote and very remote areas the housing challenge is even more complex, given the existence of few skilled workers locally for adequate levels of maintenance.⁹

4.9 Dr Lara Wieland and Dr Richard Heazlewood suggest that the cost of providing housing should not be prohibitive and they point to low maintenance practical housing that can be erected locally, similar to that currently used in developing countries. To address the issue of maintenance, new housing should coincide with 'training for local youth to become tradespeople in their own communities'.¹⁰

4.10 Issues with housing for homelands and outstations was also raised in submissions and is an area currently receiving significant attention. Laynhapuy Homelands Association, on behalf of the traditional Owners of the Laynhapuy, Djalkarripungu and Miyarkapuyngu regions of North East Arnhem Land, state that between 2003 and 2010 they have been allocated a total of three new houses which 'neither addresses backlog needs or meets emerging needs'.¹¹ The committee notes that many of the issues and concerns regarding housing on homelands and outstations is affected by arrangements between the Commonwealth and state and territory governments.

4.11 The committee appreciates the level of concern people have about housing and recognises the impact it is having on other determinants of individual and community wellbeing such as health and education. The committee agrees with the National Rural Health Alliance that:

Adequate housing tailored to suit the climate and lifestyles of Indigenous Australians remains an essential element of improved health and wellbeing of Aboriginal and Torres Strait Islander communities in remote areas.¹²

4.12 The committee will consider the issue of both adequate and culturally appropriate housing throughout the course of its inquiry.

Policing

4.13 Adequate staffing and resourcing of police stations in regional and remote Indigenous communities is a major area of concern for the committee in relation to state and territory government policy and the wellbeing of these communities. The inquiry so far has highlighted serious understaffing and underfunding in many remote police stations which has a serious impact on the security and safety of the community.

9 National Rural Health Alliance, *Submission 8*, p. 9.

10 Dr Lara Wieland and Dr Richard Heazlewood, *Submission 12*, p. 9.

11 Laynhapuy Homelands Association, *Submission 28*, p. 12.

12 National Rural Health Alliance, *Submission 8*, p. 9.

4.14 The committee observed firsthand the impact that understaffing of remote police stations is having on communities during its visit to Balgo. Prior to the release of the report from the Gordon inquiry in 2002, Balgo had no permanent police presence. As part of the Western Australian government's response to the Gordon report, Balgo was the first community provided with a 'multifunction' police station. The committee understands that it is now the busiest remote facility in the Kimberley with an average of 350 arrests per year with two police officers providing 24 hours a day, 7 days a week protection for three communities over an area of 200km.

4.15 The committee has been advised that Warburton in Western Australia has four police officers who make a similar number of arrests on an annual basis. Additional police officers in Balgo would reduce the substantial pressure placed on the two officers currently stationed in the community.

4.16 There is little doubt that the shortage of police officers impacts negatively on the community and it places both the community and police officers at risk. The committee heard that if an assault occurs in one of the other communities serviced by the police in Balgo, the police must then drive several hours to apprehend the offender. During this time there is no police presence in Balgo. Furthermore, if police then have to take an offender to Halls Creek the time the community is without police is significantly extended. In addition the committee also heard that if a person is kept in custody in Balgo one officer must remain there at all times, leaving one police officer to attend call-outs, and in more dangerous situations where two officers are required they are subsequently unable to attend.¹³

4.17 In addition to placing the community and officers at risk, the inadequate staffing of police stations also reduces the ability of police to undertake preventative measures and build positive relationships with the community. For example police officers in Balgo advised the committee that they are unable to perform regular patrols in order to prevent 'sly-grogging' in the community. Instead the police are only able to respond following a report that alcohol has entered the dry community.

4.18 Other submissions, such as that from Dr Lara Wieland and Dr Richard Heazlewood—writing about Cape York communities in Queensland—supported this view stating that 'an appropriate police presence both in numbers and in maturity' is essential to combat sly-grogging.¹⁴ Other initiatives to build better relationships with the community, such as regular visits to schools and a police rangers group, are also constrained by the lack of resourcing.

4.19 The overall effect of inadequate staffing of police stations is best expressed by Dr Lara Wieland and Dr Richard Heazlewood in their submission:

The community needs to be provided with safety and justice as a basic starting point. Nothing else can be tackled unless there is basic protective

13 Committee inspection, Balgo, Thursday 21 August 2008.

14 Dr Lara Wieland and Dr Richard Heazlewood, *Submission 12*, p. 7

security for all, in particular women and children. Police must be there to listen, enforce and protect. This requires adequate police numbers for workload. Police need to be the best for the job, experienced and supported and rewarded for committing to service in communities.¹⁵

4.20 Tangentyere Council's submission outlined the need for additional police officers to appropriately and effectively police the town camps of Alice Springs, especially following the designation of the camps as dry areas under the NTER. The Council explained how the community patrols it runs work closely with the police, and play an important role in reducing violent incidents.¹⁶

4.21 While most submissions on this issue consider that more police are required in regional and remote communities, the Laynhapuy Homelands Association offers an alternative experience. They state that very few incidents occur on the homelands where police involvement is required as '...traditional law, and structure of responsibility/authority, are still heavily relied on to resolve disputes before they escalate to a problematic level'.¹⁷ There is a police presence in Nhulunbuy, and the communities will call for assistance and cooperate with police when needed. This highlights the diversity of community structures and needs in relation to policing and reinforces the need for community resourcing to be allocated according to the individual circumstances of communities.

State/territory and commonwealth government relations

4.22 The bilateral and overarching agreements between the Commonwealth and state and territory governments—under the COAG National Framework of Principles for Government Service Delivery to Indigenous Australians—set out which level of government has primary responsibility for service delivery, and where overlaps remain the agreements set out an agreed approach.¹⁸ However, the committee notes there is very little consistency between the separate agreements of each state and territory. The committee intends to raise this issue with the respective government departments as soon as the occasion arises.

4.23 In addition, the bilateral and overarching agreements are not the only frameworks governing a state or territory's relationship with the Commonwealth insofar as they relate to services and policies for Indigenous people in regional and remote communities. In its submission the South Australian government outlined the main structures and agreements between it and the Commonwealth:

15 Dr Lara Wieland and Dr Richard Heazlewood, *Submission 12*, p. 10.

16 Tangentyere Council, *Submission 31*, p. 28; see also Harry Blagg and Giulietta Valuri, (2004) 'Aboriginal Community Patrols in Australia: Self-Policing, Self Determination and Security', *Policing and Society*, vol. 14, no. 4, p. 215.

17 Laynhapuy Homelands Association, *Submission 28*, p. 19.

18 All the bilateral agreements are available from the FaHCSIA website at: <http://www.facsia.gov.au/internet/facsinternet.nsf/indigenous/nav.htm#1>

- the Overarching Agreement on Indigenous Affairs between the Commonwealth of Australia and the State of South Australia;
- the Aboriginal Task Force (exploring agreed priorities through the drafting of an Aboriginal Strategic Plan);
- an Indigenous education agreement (Indigenous Education Strategic Initiative Program agreement);
- the Agreement on South Australian Aboriginal Health and Wellbeing between the State of South Australia, the Australian Government and the Aboriginal Health Council of South Australia Inc.; and
- the Indigenous Housing and Community Infrastructure Agreement.¹⁹

4.24 The above list serves to illustrate the complexity of arrangements between the states and territories and the Commonwealth government.

4.25 Oxfam Australia notes:

Previously, governments have failed to clarify responsibilities within and between levels of government to provide essential services to citizens, and have established costly, burdensome and duplicative administrative systems.

There are overlapping and duplicative roles and responsibilities between federal, state and local government officials, Federal Government Business Managers, Indigenous Coordination Centres and the State and Territory offices of Federal Government departments...

... The conditions in Indigenous communities across Australia reflect, in part, the ongoing breakdown in federal/state responsibilities.

Existing financial arrangements and roles at federal and state levels have failed to ensure that Indigenous communities have access to essential services – safe water and sanitation, adequate housing, primary health care, schooling and policing - let alone the full and diverse opportunities for productive cultural and economic development that the citizens of a developed nation should enjoy.²⁰

4.26 The committee also notes that from its initial visits to Indigenous communities in Western Australia great frustration and confusion was expressed regarding the roles and responsibilities of all levels of governments. The Kimberley Aboriginal Law and Culture Centre (KALACC) concluded that 'one of major

19 The Hon Jay Weatherill MP, South Australian Minister for Aboriginal Affairs and Reconciliation, *Submission 27*, p. 2.

20 Oxfam Australia, *Submission 17*, pp. 11 and 17.

difficulties facing remote communities is engagement with government, at both State and Commonwealth levels'.²¹

4.27 KALACC also supplied the committee with a copy of the Law Reform Commission of Western Australia's report on Aboriginal customary law which found that:

Much of this disadvantage stems from a lack of infrastructure and essential government services to Aboriginal communities and includes the provision of suitable housing, education, law enforcement and healthcare, as well as clean water, waste disposal and power. The Commission found that part of the reason for problems of service provision to Aboriginal communities lay in the complicated nature of relationships between the three levels of government—local, state and federal—responsible for the delivery of services.²²

Primary health care

4.28 The National Rural Health Alliance state that Indigenous health services in regional and remote communities have been severely underfunded by state and territory governments in the order of \$350–500 million per annum. In order to provide adequate health services in these communities they recommend that a minimum investment of \$460 million a year is required on top of funds already allocated through the NTER.²³

4.29 The committee notes and has observed the excellent work and professional services provided by community health organisations and other health services in regional and remote areas. For many Indigenous people in remote areas it is not just the quality of services which is of concern but the access to services.

4.30 The committee understands that the South Australian government has outlined the improvement of both physical access and cultural appropriateness of health services for Indigenous people as a priority area for the government.²⁴

4.31 Oxfam Australia noted that some of the issues regarding primary health care have arisen from a lack of support from both state and Commonwealth governments of Indigenous initiated and supported programs and greater recognition should be given to the Indigenous community controlled health sector, which in their view, 'plays a critical role in the provision of essential health services across Australia.'²⁵

21 Kimberley Aboriginal Law and Culture Centre, *Submission 37*, p. 2.

22 Law Reform Commission of Western Australia, *Aboriginal Customary Laws - The interaction of Western Australian law with Aboriginal law and culture*, September 2006, p. 33.

23 National Rural Health Alliance, *Submission 8*, p. 4.

24 The Hon Jay Weatherill MP, South Australian Minister for Aboriginal Affairs and Reconciliation, *Submission 27*, p. 12.

25 Oxfam Australia, *Submission 17*, p. 21.

The committee will raise the issue of funding for community controlled health services with the respective Commonwealth, state and territory government health departments during its inquiry.

4.32 The South Australian government has recognised the need to enhance the provision of comprehensive primary health through Aboriginal Community Controlled Health Services but states in its submission that this is an area that requires additional Commonwealth government investment and attention.²⁶

4.33 Dr Lara Wieland and Dr Richard Heazlewood suggest that state, territory and commonwealth governments should create a statewide statutory Indigenous health body that:

...pools Commonwealth and state funds for health and provides expertise in indigenous health, with reduced bureaucracy and increased efficiency. Evidence increasingly points to a move to more regionalised community controlled health services, as per the Katherine West health board ...this model...improves efficiency, reduces wastage and duplication and all evidence suggests it leads to better outcomes.²⁷

Mental health services

4.34 Many of the submissions, as well as organisations the committee met with in Western Australia, commented on the inadequacy of mental health services. The National Rural Health Alliance, in their submission state:

The problems faced by Aboriginal and Torres Strait Islander people with mental illness are exacerbated in rural and remote areas by poor access to appropriate primary health care and specialist mental health services.²⁸

4.35 This issue has been of particular concern in the Kimberley region of Western Australia where many organisations raised their concerns regarding the lack of mental health services.

4.36 Testimony given at the recent Western Australian coronial inquest into 22 deaths in the region confirmed that:

...there is no clinical mental health professional permanently based in the Fitzroy Crossing area and the area is serviced by clinical staff from the Mental Health Service based in Derby, supported by regional staff such as psychiatrists, working out of Broome.²⁹

26 The Hon Jay Weatherill MP, South Australian Minister for Aboriginal Affairs and Reconciliation, *Submission 27*, p. 3.

27 Dr Lara Wieland and Dr Richard Heazlewood, *Submission 12*, p. 7.

28 National Rural Health Alliance, *Submission 8*, p. 6.

29 Western Australian State Coroner, Mr Alastair Hope, *Inquest into 22 deaths in the Kimberley region*, Ref No: 37/07, pp. 138-9.

4.37 This issue was further highlighted during the inquest by the circumstances of one of the deaths in question which related directly to inadequate secure mental health facilities. Without such facilities severely ill patients had to be transported to Perth for treatment which is distressing and costly for both the patient and family. The only option available was for the patient to be physically restrained. The coroner concluded that:

In the above context it is understandable why it was that a severely mentally unwell person was not detained as an involuntary patient and was permitted to return to the care of her family. Sadly, if there had been a secure mental health facility in the Kimberley, it is very likely that the deceased would have been detained at that facility and would not have hanged herself on 4 January 2006.³⁰

4.38 The lack of mental health facilities is not confined to the Kimberley region. As Legal Aid Western Australia notes in its submission, other offices across Western Australia are reporting similar concerns about a lack of local mental health services.³¹ The committee has also heard of similar scenarios and issues arising where mentally ill patients have had to be physically restrained and sedated at the police station due to a lack of appropriate facilities and trained specialist staff.

4.39 In addition to a lack of mental health services and facilities, both Legal Aid Western Australia and the National Rural Health Alliance expressed concern regarding the shortage of mental health professionals such as psychologists, psychiatrists and other mental health workers as having a detrimental effect on regional and remote communities. For example:

...even in a larger regional area such as Carnarvon, a psychiatrist only visits once a month. Legal Aid is aware of cases where offenders with mental health issues have been placed in custody in remote and regional areas [when] in similar circumstances in a metropolitan area they would have received a supervisory order or bail...if the appropriate support services were available.³²

4.40 In order to address this issue, Legal Aid Western Australia recommends the state government fund and support positive incentives to attract more mental health workers, especially focussing on those with expertise working with children and young people.³³ The National Rural Health Alliance also supported the need to further train Indigenous health workers in the area of mental health, noting the important role they play in providing culturally appropriate and effective mental health services.³⁴

30 Western Australian State Coroner, Mr Alastair Hope, *Inquest into 22 deaths in the Kimberley region*, Ref No: 37/07, p. 142.

31 Legal Aid Western Australia, *Submission 1*, p. 7.

32 Legal Aid Western Australia, *Submission 1*, p. 7.

33 Legal Aid Western Australia, *Submission 1*, p. 8.

34 National Rural Health Alliance, *Submission 8*, p. 7.

4.41 The committee considers that there is a general inadequacy of mental health services and staff in the Kimberley region as well as throughout other regional and remote Indigenous communities and notes that this is impacting upon the wellbeing of these communities. The committee will give this area further attention in future reports.

Aged care services

4.42 In addition to specialist mental health services, it was also brought to the committee's attention that sufficient aged care facilities were absent in many communities. In Balgo the Kapululangu Aboriginal Womens Law and Culture Centre has assumed the role of caring for and providing accommodation to women elders in the community. According to Kapululangu this has been achieved without any dedicated funding and purely as 'a response to the hiatus of properly constituted aged and disabled care in Balgo'.³⁵ Kapululangu also notes that the male elders in the community remain without any aged care services.

4.43 The committee notes that one of the solutions Kapululangu has recommended for elderly members of the community is a comprehensive Home and Community Care (HACC) program. HACC is a joint Commonwealth-state funded program to provide community care services to frail aged people and younger people with disabilities, and their carers.³⁶

4.44 In addition to the provision of aged care services, support is required for carers to assist the elderly to remain at home. The National Rural Health Alliance, in support of the position of Aged and Community Services Australia, recommends the creation of a comprehensive Indigenous policy for carers:

...which would incorporate Home and Community Care (HACC) and other community care programs, and for the Remote Indigenous Service Support (RISS) initiative to provide flexible support for all Indigenous services...Families and carers need to be supported with more funding and with simple, streamlined culturally-appropriate processes.³⁷

Public transport

4.45 Liz Penfold MP raised the issue of inadequate and ad hoc public transport services between regional and remote communities, citing the demise of the bus service between Yalata and Ceduna on the far west coast of South Australia. The submission notes that the bus service was initiated with Commonwealth government funding and then sustained for two years with funding from the South Australian state government. As the submission outlined, without this public bus service there has been an:

35 Kapululangu Aboriginal Womens Law and Culture Centre, *Submission 36*, p. 6.

36 More information is available from: <http://www.health.wa.gov.au/hacc/home/index.cfm>

37 National Rural Health Alliance, *Submission 8*, p. 5.

increasing number of incidents where...Aboriginal persons [were] lying in the middle of the road or walking on the verge of the road in an intoxicated state. These incidents had become virtually non-existent when a reliable bus service operated...this was just one example of many negative community disturbances and community problems in the Ceduna township that a reliable bus service alleviated or removed.³⁸

4.46 The Shoalcoast Community Legal Centre noted a similar lack of transport options on the NSW south coast where public transport either does not exist or the only option was the daily school bus. This greatly limits access to support services, such as domestic violence services and Aboriginal Police Liaison workers, normally located in the larger regional towns.³⁹ Legal Aid Western Australia also recommends the allocation of a community bus service to each community accessible by road in order to provide people with a means to comply with court orders.⁴⁰

4.47 The committee recognises that there is a general lack of public transport in regional and remote areas which is a significant issue for Indigenous communities and their wellbeing. As the 2006 Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities survey found, only 54 discrete Indigenous communities out of the total of 1 187 surveyed on this issue, indicated that public transport was available to travel to and from the community into major service towns, with community run transport available in only an additional 72 communities.⁴¹

Outstations, homelands and small discrete communities

4.48 The committee notes concern has been expressed regarding the future viability of small discrete communities—usually less than 50 people—and outstations and homelands, which were originally created in order to re-establish cultural, religious and traditional links to ancestral lands.

4.49 The main concern outlined in submissions is the ambiguity and even absence in some cases of state, territory and Commonwealth policy on the viability of and service delivery arrangements to these communities. This is having a large impact on the wellbeing of these communities, as Greg Marks outlined:

The major implication is no new housing for outstations. Some satellite communities close to larger settlements might get under the radar and get funded, but otherwise the huge investment in housing on Indigenous outstations and homelands to date is basically to be left to depreciate to worthlessness. There is no replacement program, let alone additional housing. The significant unmet demand and backlog, and the rapidly growing population, are all to be ignored. The only way to obtain housing

38 Liz Penfold MP, *Submission 2*, p. 3.

39 Shoalcoast Community Legal Centre, *Submission 19*, p. 4.

40 Legal Aid Western Australia, *Submission 1*, p. 11.

41 Australian Bureau of Statistics, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities, Australia*, 2006 (cat. 4710.0), p. 34.

in future will be to move back to the large communities. The message to Aboriginal people is clear.⁴²

4.50 The Memorandum of Understanding between the Commonwealth and the Northern Territory government on Indigenous Housing, Accommodation and Related Services signed in September 2007 specified that the Commonwealth 'will have no further responsibility for the delivery of Indigenous housing, municipal, essential and infrastructure services in the Northern Territory from 1 July 2008'.⁴³ The Laynhapuy Homelands Association concluded:

The Australian Government has wiped it's hands of responsibility for the backlog of need in homelands - need which have been clearly identified in funding reports year after year and through the national CHINS survey, NATSIS survey, etc.⁴⁴

4.51 The Tangentyere Council advised that under the local government reform measures in the Northern Territory, homeland outstations and town camps have been excluded from receiving the new allowance for house maintenance of \$8 000 per house per year, almost four times the amount it currently receives.⁴⁵ The committee questions the reason for this discrepancy and will make further inquiries about this situation, but recognises that the Commonwealth government has recently announced an additional \$5.3 million to Tangentyere Council for upgrades to existing housing in the Alice Springs town camps.⁴⁶

4.52 The committee also notes the new Strategic Indigenous Housing and Infrastructure Program (SIHIP), jointly funded by the Commonwealth and Northern Territory governments. The committee will monitor the progress of this initiative and report any improvements for outstations, homelands and small discrete communities.

4.53 KALACC also expressed frustration at determining the Western Australian government's policy on the sustainability of remote Indigenous communities.⁴⁷

4.54 The committee believes that state, territory and Commonwealth governments should, at a minimum, establish clear policies in respect to these communities and agree on responsibilities for basic service delivery such as housing. As Greg Marks states:

42 Greg Marks, *Submission 30*, p. 6.

43 Memorandum of Understanding between the Australian Government and the Northern Territory Government, *Indigenous Housing, Accommodation and Related Services*, September 2007.

44 Laynhapuy Homelands Association, *Submission 28*, p. 10.

45 Tangentyere Council, *Submission 31*, p. 7.

46 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, '\$5.3 million upgrade for Tangentyere housing', Press release, 10 July 2008.

47 Kimberley Aboriginal Law and Culture Centre, *Submission 37*, p. 2.

Whilst the economic circumstances facing outstations and similar small and decentralised communities are difficult, this situation will not be solved by encouraging people to move from their traditional lands – this merely displaces the problem and arguably exacerbates negative outcomes...

...the delivery of services, including essential services, will be a critical component in regard to outstations being viable and healthy communities. It is no good allowing outstations and similar communities to become dilapidated with worn out infrastructure and over-crowded housing.⁴⁸

Regional governance

4.55 The ability of state and territory governments to create and implement policies effectively in remote communities was also raised as a concern. Desert Knowledge Australia's 2008 report on developing initiatives to revitalise remote Australia highlighted that governments at all levels have disengaged with remote Australia:

Remote Australia is inevitably distant—and remote—from the everyday attentions of government. Despite best intentions Remote Australia will not consistently attract the attention of metropolitan-focussed governments. Successive and sincere efforts to 'make a difference' have generally failed. It is vital to have an effective and sustainable governance regime for Remote Australia which is not dependent on the intermittent attention of distant governments.⁴⁹

4.56 The issue of regional governance and locally controlled programs was raised both by KALACC and the Shire of Derby/West Kimberley during the committee's visit to the Kimberley. During the visit to KALACC, a desire was expressed to the committee for the creation of an autonomous structure to be created in the region similar to the Torres Strait Regional Authority to support service delivery to small communities and larger centres.⁵⁰ The Shire of Derby/West Kimberley discussed with the committee the need for a regional authority in order to best utilise local knowledge and achieve the best outcomes. The committee heard examples of where state government agencies, operating out of Perth, made decisions without local consultations on new housing locations which were inappropriate for the climate and the region.⁵¹

4.57 The Laynhapuy Homelands Association in their submission also expressed frustration:

...at the failure of government...to appropriately support their aspirations for separate development through the provision of appropriate infrastructure and services to develop local capacity, such as is proposed in the LHAI

48 Greg Marks, *Submission 30*, p. 9.

49 Desert Knowledge Australia, *remoteFOCUS: Revitalising Remote Australia*, July 2008, pp. 5-6.

50 Committee inspection, Fitzroy Crossing, Wednesday 20 August 2008.

51 Committee inspection, Balgo, Friday 22 August 2008.

[Laynhapuy Homelands Association Incorporated] 'hub' model of development. Their aspirations and efforts over the past 30 years to build their homelands as self-managing communities have been completely discounted and disregarded by Government policy leading up to and since the intervention.⁵²

4.58 The committee notes the current FaHCSIA consultations for the development of a National Indigenous Representative Body which would give Indigenous people greater input into Indigenous affairs and policy development.⁵³

Legal services

4.59 Concerns were raised by Legal Aid Western Australia regarding the provision of legal services and access to justice in regional and remote communities. Legal Aid Western Australia argued that the level of funding provided by state, territory and Commonwealth governments was insufficient and did not provide these communities with a comparable level of assistance to that received in metropolitan areas.⁵⁴

4.60 Legal Aid Western Australia also notes that:

Improvements in the justice system will have reduced impact unless they are part of a holistic approach drawing on the strengths of these communities at the same time as well as addressing the problems in health, education, and welfare.⁵⁵

4.61 The committee also notes the provision of additional funding by the Western Australian government to appoint a magistrate and court staff as well as create a new Legal Aid office in the east Kimberley, which Legal Aid Western Australia states 'will assist in the redress of these issues in this area'.⁵⁶

Repatriation of human remains and secret and sacred objects

4.62 While visiting KALACC in Fitzroy Crossing the committee was shown a shipping container on their premises that contained hundreds of human remains and sacred objects that were actively sought and repatriated mainly from Swedish museums. The committee heard that KALACC's support was actively sought by the Commonwealth government in order to repatriate these remains and items however since the demise of the Aboriginal and Torres Strait Islander Commission the Commonwealth government has provided insufficient funding or assistance to return

52 Laynhapuy Homelands Association, *Submission 28*, p. 9.

53 More information available from FaHCSIA website:
<http://www.facsia.gov.au/internet/facsinternet.nsf/indigenous/repbody.htm>

54 Legal Aid Western Australia, *Submission 1*, p. 3.

55 Legal Aid Western Australia, *Submission 1*, p. 2.

56 Legal Aid Western Australia, *Submission 1*, p. 13.

the remains to country, and that as a consequence, the remains and other objects had been left in the container for several years.⁵⁷

4.63 Although this is an area the Commonwealth government is responsible for, the committee was sufficiently shocked by this situation to raise this issue in the report. The committee understands that since its visit to the Kimberley an offer of funding has been made to KALACC by FaHCSIA to support repatriation activities through to 30 June 2009. The committee will follow up on the outcomes of this funding being made available in subsequent reports.

57 Committee inspection, Fitzroy Crossing, Wednesday 20 August 2008.