



Aboriginal Legal Rights Movement Inc

ABN 32 942 723 464

ADELAIDE
321-325 King William Street
Adelaide SA 5000
DX 239
Ph (08) 8113 3777
Fax (08) 8211 7618

Native Title Unit
Level 4
345 King William Street
Adelaide SA 5000
DX 239
Ph (08) 8110 2800
Fax (08) 8110 2811

CEDUNA
cnr East Tce & Merghiny St
PO Box 419
Ceduna SA 5690
DX 51904
Ph (08) 8625 2432
(08) 8625 2200
Fax (08) 8625 3093

MURRAY BRIDGE
3-5 Bridge Street
PO Box 763
Murray Bridge SA 5253
DX 51215
Ph (08) 8532 4788
Fax (08) 8531 1015

PORT AUGUSTA
12 Church Street
PO Box 1771
Port Augusta SA 5700
DX 51023
Ph (08) 8642 4366
Fax (08) 8642 4650

PORT LINCOLN
30 Ravendale Road
PO Box 800
Port Lincoln SA 5606
Ph (08) 8683 4160
Fax (08) 8683 4160

Reply To: Adelaide

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30 July 2004



Mr Jonathan Curtis
Committee Secretary,
Select Committee on the Administration of Indigenous Affairs
Parliament House
CANBERRA ACT 2600

Inquiry into the Administration of the Indigenous Affairs.

Thank you for your letter of 2nd July 2004 inviting ALRM to make a submission to the Senate Inquiry.

Whilst ALRM is a service provider to Indigenous peoples within the State of South Australia, it must be recognised that our resources have been stagnant since 1997 and our caseloads increased significantly so our capacity to respond on all matters being considered by the Committee is very limited.

I am anxious for the Committee to recognise that from a service provider point of view, it is extremely frustrating that organisations like ALRM are continually expected to submit papers to various Committees and other Inquiries on virtually the same issues.

My staff and I are exhausted in repeating the same things to different Government bodies, Agencies and Parliamentary Inquiries with little or no effect. Parliament exists to ensure those that control the Treasury bench govern for all Australians including Indigenous Australians. It is most disappointing that I have to write to this Committee and use it as a vehicle to remind the Government of this very point that it is there for all Australians, and certainly for the most disadvantaged. The Government's actions since coming to power in 1996 have been less than impressive when considering Indigenous Affairs.

As a community it is incumbent upon us all to be responsible for the care of those that are disadvantaged. Government is failing in this area by not embracing Indigenous Australians and working in partnership towards improving their quality of life. It is very disappointing and unfortunate that the current Government is using Indigenous Australians for its own political gains.

ALRM has submitted the attached papers to various Committees and Agencies with no effect so I will NOT be regurgitating the same information that will not produce one ounce of compassion or resolve to improve the lives of Indigenous peoples in this State. The papers submitted include:

- Senate Inquiry in Legal Aid and Access to Justice
- ATSI Exposure Draft on Tendering Indigenous Legal Aid
- Joint Committee of Public Accounts and Audit Indigenous Law & Justice Inquiry

These documents form part of my submission to this current Inquiry with the added comment that it appears that NGOs like ALRM are banging their collective heads against a brick wall with the only result being more frustration and disappointment from those that should be assisting Indigenous Australians.

I confirm to the Inquiry without reservation that if I performed my role to the extent that ALRM has been served by successive Ministers and the bureaucracy I would have had my marching orders a long time ago as my Board would not tolerate incompetence or second-rate service.

I now provide comments for consideration by the Committee:

1. ALRM is of the view that the Government of the day needs to provide leadership in Indigenous affairs. In this regard it is considered Government must undertake a comprehensive diagnostic across the whole of Australia on all matters relating to quality of life for Indigenous Australians. This suggested Inquiry should include:
 - Health;
 - Education;
 - Housing;
 - Employment;
 - Justice;
 - Culture, Language and Heritage;
 - Land Rights, and
 - Treaty.
2. Community based organisations like ALRM exist in an environment with constant demands placed upon them for information that is regurgitated over and over again. The concern that ALRM has is that those within Government as distinct from Parliament have a negative mindset based upon race, which is proving detrimental to the well-being and quality of life of Indigenous Australians. The Government should embrace the Indigenous population and not deny services enjoyed by the rest of the country.
3. It is considered that the credibility of the Government is at its lowest when it comes to Indigenous Australians and denying access to justice, self-determination and quality of life. On one hand the Government is overseas expending millions of dollars bombing a country and installing democracy, whilst at the same time it is denying funding and dismantling democracy for Indigenous Australians.
4. I am of the view that Australia is returning to the dim dark ages of the 1950s to provide services to Indigenous Australians through a failed mainstream system. That system was discredited then and the Government in this regard is ignoring the concerns of prominent Australians and organisations. Various Government Inquiries including the Royal Commission into Aboriginal Deaths in Custody and the Grants Commission support service delivery by Indigenous organisations.

5. ATSIC has been denied the opportunity to prove itself in the longer term where the Government has focussed on the conduct of a few discredited individuals to dismantle something that had the potential with the right leadership to improve the quality of life for the Indigenous population of this country. The Government has allowed itself to be detoured away from a potential problem solver and directed to a discredited and failed system with a history of abuse and mismanagement.
6. Government Agencies and Departments will not be under the same accountability that was attributed to ATSIC. There does not appear to be any thought given to monitoring Agency and Department performance against best practice and service ideals or the rigor to pursue such an agenda. With ATSIC there was a national and accountability, which has now almost vanished.
7. All that has happened since the Howard Government came to power is criticism, complaints and victimisation of ATSIC and Indigenous peoples generally. Whilst I have expressed concerns about the lack of leadership within ATSIC, and the appalling behaviour of some individuals, I am also of the opinion that the ATSIC Review team and its recommendations did offer ATSIC and the Government a way forward. That Review team was heading in the right direction. The current Government with its misguided ideology has chosen to ignore that comprehensive Review and its recommendations. Yet again this is just another example of more wasted taxpayer money that is something that has been constantly attributed to ATSIC.
8. To mainstream is a step backwards in time where Indigenous Australians were not even regarded second-class citizens. They were regarded as non-citizens and the Government must be condemned for its decision to abolish ATSIC and mainstream. Centralised bureaucracies do not understand or appreciate what it is like to be Indigenous in this country yet they will be the decision makers like yesteryear; a discredited and failed approach to overcome disadvantage.
9. ATSSIS in itself was a success when compared to mainstream service providers and yet it has been the most scrutinised Agency in its short history. The history of mainstream Departments and Agencies failure does not instil confidence in their collective ability to do what ATSIC was potentially capable of doing under the right leadership.
10. My experience is that the insensitivity of the bureaucracy is such that services to Indigenous Australians will decline rather than be enhanced. ALRM has been the receiver of less than professional behaviour by the bureaucrats to the extent that I was forced to lodge a complaint with the Senate Inquiry into Legal Aid and Access to Justice and also to the Commonwealth Ombudsman.
11. ALRM has had static funding under this Government and since 1997 our funding has been approximately \$3.4m pa whilst comparable mainstream services provide a similar service at \$9.2m (ATSIC Office of Evaluation & Audit Report January 2003). Where is the business sense in mainstreaming? There is none!
12. This Government is continually in the media talking about protecting taxpayer dollars yet its own decision to a proposed tender of ALRM doesn't make business sense. As stated earlier I suggest that it is misguided 1950s ideology brought into 2004 and its impact will be devastating for the Indigenous population. There is no history of

success in mainstreaming but there is a history of success in ALRM providing a quality service at excellent value to the taxpayer. This is something that the Government should be encouraging rather than dismantling.

13. The Australian National Audit Office Report no. 13 of 2003-04 acknowledges the efficiency and effectiveness of organisations like ALRM and says there has been almost a 70% increase in caseload since 1997 whilst recognising a stagnant funding base. In our case in real terms ALRM has lost something in the vicinity of 30% in its funding whilst maintaining services on a static budget since 1997.
14. I suggest that ATSIC as a self-determining organisation has not been a failure. The bureaucracy has failed the ATSIC Board, Indigenous Australians and the taxpayer because of its inability to monitor performance of funded organisations in a way that ensured adequate and appropriate services are maintained at a value that is beneficial to taxpayers e.g. in Queensland there are a large number of Legal Services that have been under scrutiny for a number of years without effective change towards better service to clients, efficiencies, effectiveness or best practices. Yet these same bureaucrats will provide the same support in their new Agencies and Departments. There has been no analysis or detailed assessment hence there is no logic in the decision to abolish ATSIC and mainstream.
15. It is particularly concerning when I read findings in the ANAO Report such as no current strategic or business plans or risk assessment plan for the Law and Justice Program. I have to ask what the bureaucracy that the Government has faith in was doing whilst at the same time criticising ALRM's Strategic Plan. My only response is at least ALRM had a Strategic Plan, which was developed internally and without support from ATSIC or the resources of that organisation.
16. I then read at finding no. 26 where the ANAO concluded that there were considerable management deficiencies within the L&J program. My interpretation is that the bureaucracy had systematic problems and which unfortunately are still ongoing and will continue in the various new Agencies and Departments. The Government is now effectively saying that these same discredited bureaucrats will be distributed and trusted within a whole network of Government Agencies and Departments and doing the same activities that have failed in the past. How is that going to help Indigenous Australians? It won't!
17. I will acknowledge that the leadership of ATSIC was of concern. The bigger concern however is the inadequacy of the bureaucracy to meet the challenges required to improve the quality of life for those that ATSIC was created to serve. The same bureaucracy is now transferred into other Department and Agencies where performance is well below that currently achieved by organisations like ALRM. When considering our operations since 1996-97 through to the present time and I can only conclude that I would challenge the mainstream to match our performance. They are just not in our league. This is supported by the findings contained in the ATSIC Office of Evaluation and Audit Report January 2003.
18. Turning to the recommendations from the Senate Inquiry into the Legal Aid and Justice Aid I refer to Recommendation 33 which provides that the Commonwealth Government should undertake a legal needs analysis. I would suggest that this analysis should be across


the spectrum of the needs of Indigenous Australians and I consider that this is the appropriate direction in which the Government should be heading. To take such drastic action as attempting to dismantle ATSIC and mainstream services indicates motives that are not in the interests of Indigenous Australians. I will leave it to the reader to reach a conclusion on those motives, which I suggest do not reflect an agenda to improve the quality of life of the Indigenous population.

19. This Government appears to also have an agenda to abdicate its responsibilities for the Indigenous population and transfer its funding and other obligations to the States without compensation. Why else has it failed to increase funding to organisations like ALRM and refer to itself as a supplementary funder to the States on Indigenous issues. I will further suggest that its conduct is discriminatory as it has increased its funding commitment for mainstream legal aid whilst at the same time restricted funding to Indigenous legal aid organisations like ALRM. If that conduct is not discriminatory then I am misjudging the whole funding situation.

In conclusion, the Commonwealth needs to take a deep breath, maintained the status quo for ATSIC and its programs and undertake an extensive needs review across the country.

I also strongly suggest that ATSIC staff should comprise high calibre managers in senior positions within the bureaucracy and have an agenda to refocus the organisation on key deliverables for the betterment of Indigenous Australians. To achieve this it needs a forward thinking and committed Government otherwise yesteryears failures will only be repeated.

Yours sincerely



Neil E Gillespie
Chief Executive Officer