

4 August 2004

Jonathan Curtis
The Secretary
The Senate
Parliament House
Canberra ACT 2601

Dear Mr Curtis

Senate Select Committee on the Administration of Indigenous Affairs

Please find enclosed the VCOSS submission to the *Senate Select Committee on the Administration of Indigenous Affairs*.

We look forward to the opportunity to present to the Committee. VCOSS express its concern at the lack of planned public hearings in Victoria, and advocates that the Committee undertake public hearings in Victoria.

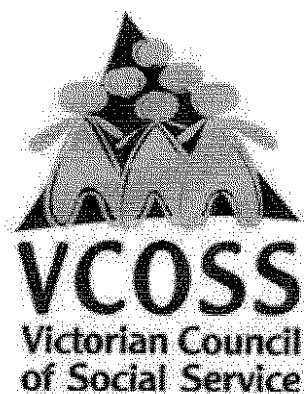
Please contact either myself or Carolyn Atkins, Policy Analyst, to discuss the VCOSS submission.

Yours sincerely

Victorian Council of Social Service

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**Submission to the
Senate Select Committee on the Administration
of Indigenous Affairs**

July 2004

**This submission was authorised by Cath Smith, Chief Executive Officer,
and written on behalf of the Victorian Council of Social Service (VCOSS)
by Carolyn Atkins, Policy Analyst.**

**For further information regarding this submission,
contact Cath Smith or Carolyn Atkins, telephone: 03 9654 5050.**

Introduction

"Indigenous peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State."¹

The Victorian Council of Social Service (VCOSS) is the peak body of the social and community sector in Victoria. VCOSS works to ensure that all Victorians have access to and a fair share of the community's resources and services, through advocating for the development of a sustainable, fair and equitable society.

VCOSS VISION

VCOSS believes a society that lives out the principles of equity and justice:

- ensures everyone has access to and a fair share of the community's resources and services
- involves all people as equals, without discrimination
- values and encourages people's participation in decision making about their own lives and their community.

This is consistent with Article 25 (1) of the 1948 Universal Declaration on Human Rights states:

"Everyone has the right to a standard of living adequate for the health and wellbeing of [her or] himself and of [her or] his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood."

Inequality and disadvantage are not acceptable in a society that reflects the *Universal Declaration on Human Rights*.² A commitment to equality of access to and participation in community life is critical to ensure all citizens have the capacity to reach their full potential.

Senate Select Committee on the Administration of Indigenous Affairs

VCOSS welcomes the establishment of the Senate Select Committee on the Administration of Indigenous Affairs (to be referred to in this submission as the Committee).

VCOSS urges all members of the Committee to give serious consideration to the submissions provided, and to the strong belief of many in the Victorian community that an effective representative voice for Indigenous Victorians is as important for the broader community as well as for Indigenous Victorians.

VCOSS wishes to note its concern at the very short time frame that was set for the receipt of written submissions. From the Victorian community and social sector's perspective, the short time frame prevented many organisations from making submissions and prevented VCOSS from being able to undertake its own more detailed consultations with our members to better inform this submission.

VCOSS also wishes to express its concern at the lack of planned public hearings in Victoria, and advocates that the Committee undertake public hearings in Victoria. VCOSS acknowledges the importance of the Committee visiting remote areas of Australia (Broome and Alice Springs), and congratulates the Committee on doing this, but stresses that the issues and challenges experienced by Indigenous peoples and communities in northern regional and remote areas of Australia have a different focus to those experienced by Indigenous peoples and communities in south-eastern Australia. Holding a public hearing only in Canberra, will restrict the voice of and disadvantage Indigenous and non-Indigenous peoples, communities and organisations in south-eastern Australia, including Victoria.

Key Issues for VCOSS

Human Rights of Indigenous Peoples

Australia, through its Federal, State and Territory Governments, have a responsibility under the United Nations' *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and *International Covenant on Civil and Political Rights* (ICCPR) to promote and support the social, economic and cultural development of all Indigenous peoples and communities. Both Conventions affirm the fundamental importance of the right of self-determination of all peoples.

Australia is a signatory to both of these conventions. A third convention that is also of critical relevance is the United Nations' *Draft Declaration on the Rights of Indigenous Peoples* (DDRIP),³ Although DDRIP has not formally been endorsed by the United Nations or signed by Australia, VCOSS advocates that it should inform any reforms designed to address the severe social, economic and cultural disadvantage and discrimination experienced by Indigenous peoples and communities and in the development of any structure to give voice to Indigenous peoples.

The current bill and related changes under consideration will breach Australia's obligations under ICESCR and ICCPR, and contradicts the intention of DDRIP which recognises the urgent need to respect and promote the inherent rights and characteristics of indigenous peoples, especially their rights to their lands, territories and resources, which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies.

Disbandment of ATSIC

VCOSS has serious concerns regarding the Federal Government's decision to disband the Aboriginal and Torres Strait Islander Commission (ATSIC).

It is of significant concern that the Federal Government's decision contradicts the recommendations of its own independent review,⁴ conducted for the Office of Aboriginal and Torres Strait Islander Affairs, which found that there is widespread support for the objectives of ATSIC. The Panel conducting the review noted that the overwhelming view expressed to it was that ATSIC should continue to operate as the national Indigenous representative organisation, and recommended retaining and reforming ATSIC to improve its capacity to be the primary vehicle to represent Indigenous peoples' views to all levels of government and to assist in the development of programs and policies to advance the interests of all Indigenous Australians.

The Federal Government's decision has not been based on extensive consultation with Indigenous peoples and communities, and fails to acknowledge the critical importance of an Indigenous specific elected body to provide a strong collective voice for Indigenous communities. Given the Federal Government's stated policy positions on community capacity building and social capital, VCOSS believes the Federal Government's announcement raises significant questions regarding its commitment to the genuine involvement of and partnership with both Indigenous and non-Indigenous Australian communities.

New Indigenous Representative Structure

VCOSS acknowledges that ATSIC required reform, but disbanding ATSIC prior to the formation of a new representative regional and national body was not the solution. Indeed it will mean that progress in supporting and promoting the health and wellbeing, education, living standards and broader community wellbeing and capacity will be significantly restricted.

A new Indigenous representative structure is required to support Indigenous peoples' self-determination, to contribute to reducing the disadvantage and inequity experienced by Indigenous peoples and communities, and to promote their wellbeing.

VCOSS advocates that an inclusive and transparent process should be developed to establish a sustainable, independent national Indigenous body that:

- is representative of Indigenous peoples and communities,

- is open and accountable to Indigenous peoples and communities,
- has appropriate levels of resourcing,
- is provided with the time and capability to independently develop its representative and policy processes through the active involvement of Indigenous peoples,
- addresses the deficiencies outlined in the Review, including an increased focus on regional and local roles, and issues of transparency and accountability,
- is achieved with the informed consent of Indigenous peoples through inclusive processes that acknowledge their diversity and traditional authority structures.

Ensuring a strong national representative structure for Indigenous peoples and communities in Australia reflects Article 4, 20 and 32 of the United Nations *Draft Declaration on the Rights of Indigenous Peoples*. Article 4 and 20 emphasise the importance of Indigenous peoples having the right to maintain and strengthen their distinct political, economic, social and cultural characteristics through procedures determined by them. Further, Article 32 notes that Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Reforming Administration of Indigenous Affairs Policy

To reflect *ICESCR* and *ICCPR*, both of which affirm the fundamental importance of the right of self-determination of all peoples, three closely aligned priorities are required in Indigenous Affairs policy in Australia:

1. Promoting and protecting the rights of Indigenous peoples and communities;
2. Addressing the current unacceptably high levels of disadvantage across all measures experienced by Indigenous peoples in Australia; and
3. Providing a sound economic and social base for the future sustainable development of Indigenous communities.

To exclude one or more of these will not serve to promote and protect Indigenous people's right to self-determination nor promote their wellbeing.

VCOSS notes its particular concerns regarding the proposed mainstreaming of Indigenous services. Mainstreaming of Indigenous services has inherent dangers, and has been demonstrated to fail under our international obligations and on the basic tenet of promoting the wellbeing and participation of Indigenous peoples. The Productivity Commission's *Report on Government Services 2003 – Indigenous Compendium*⁵ highlighted that on the whole, mainstream health and education services have failed to protect and promote the health and wellbeing of Indigenous peoples, with many communities still having no fresh running water, experiencing high infant mortality rates and low life expectancy, combined with poor education participation, literacy, numeracy, and retention rates. ATSIC was not responsible for health and education services – mainstream services have been – yet ATSIC was held responsible by the Federal Government.

The statistics below tell the hard truth of the failure of mainstream services for Indigenous Victorians in these key areas:⁶

- Life expectancy for Indigenous males is 56 years – 21 years lower than for non-Indigenous males, and for Indigenous females, 63.5 years – 19 years lower than for non-Indigenous females.
- School retention rates for Victoria, particularly for years 10 to 12, are less than that of non-Indigenous Victorians, at 56% for Year 11 and 36% for Year 12.
- Literacy rates of Indigenous students in Victoria are 75%, compared to 92% for non-Indigenous students.

The gross inequalities experienced by Indigenous Australians are linked to “deeper issues of self-determination, land rights, reparation for the forcible removal of children, economic independence and respect for culture and identity.”⁷

The Commonwealth Grants Commission (CGC) Report on Indigenous Funding⁸ also noted that mainstream services do not meet the needs of Indigenous peoples to the same extent as they do the needs of non-Indigenous peoples and that Indigenous peoples in all regions of Australia access mainstream services at much lower rates than non-Indigenous peoples. Importantly, the

report noted that mainstream services have significant barriers regarding meeting the needs of Indigenous peoples related to the way programs are designed, how they are funded and presented and the cost to the user; and that because of the failure of mainstream services in effectively responding to the needs of Indigenous peoples, Indigenous specific services have been expected to do more than they were designed for. The CGC concludes that the high levels of disadvantage experienced by Indigenous peoples compounds the low levels of access to mainstream services across Australia. VCOSS directs the Committee to the key findings of the *CGC Report on Indigenous Funding*.

Article 23 and Article 31 of the United Nations' *Draft Declaration on the Rights of Indigenous Peoples* are particularly relevant to the consideration of mainstreaming services. Article 21 highlights that Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development, and notes that, in particular, Indigenous peoples have the right to determine and develop all health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions. Article 31 states that: Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

VCOSS does not support the mainstreaming of Indigenous services. Addressing racism, self-determination, land rights, reparation for the forcible removal of children, economic independence and respect for culture and identity are all necessary to address the underlying issues contributing to the poverty, inequity and disadvantage experienced by Indigenous Australians. In addition, specific, local responses are required to tackle specific issues in local communities. Indigenous organisations have a depth of knowledge and understanding of local Indigenous culture, values and perspectives - this would be lost in the mainstreaming of Indigenous services. Indigenous organisations are best placed to respond most effectively to the specific needs of different areas.

Government Accountability and Resourcing to meet Indigenous Need

Governments – Federal, State and Territory, their departments and agencies must be publicly accountable for the provision of services to Indigenous peoples. The lack of accountability that has existed to date around the funding and provision of services to Indigenous peoples and communities has enabled successive governments to scapegoat the former ATSIC as responsible for the failure to improve outcomes for Indigenous peoples and communities. This is despite ATSIC being responsible for only 15% of expenditure on Indigenous services, with governments responsible for the remaining 85%, and delivered through mainstream departments and agencies. This was particularly evident when the Federal Government, in justifying its decision to disband ATSIC highlighted the continuing low levels of wellbeing of and participation in community life by Indigenous peoples and communities, despite mainstream services being responsible for health and education and training.

Governments also need to be more proactive in improving the allocation of funds to meet the needs of Indigenous peoples and their communities. VCOSS directs the Committee to the CGC's 2001 *Report on Indigenous Funding*, which notes eight important principles and key areas for action to promote a better alignment of funding to the needs of Indigenous peoples.

Endnotes

- ¹ Article 4, *United Nations Draft Declaration on the Rights of Indigenous Peoples*, <http://www.cwis.org/drift9329.html>
- ² See <http://www.un.org/Overview/rights.html>
- ³ <http://www.cwis.org/drift9329.html>
- ⁴ Review Panel, 2003, *In the hands of the regions – A new ATSIC: Report of the Review of the Aboriginal and Torres Strait Islander Commission*, Office of Aboriginal and Torres Strait Islander Affairs.
- ⁵ Productivity Commission, 2003, *Report on Government Services 2003 – Indigenous Compendium*, Melbourne: Commonwealth of Australia, <http://www.pc.gov.au/gsp>
- ⁶ All figures: *The Victorian Government Indigenous Affairs Report, November 1999 – October 2002*, Victorian Department of Natural Resources and Environment, 2002
- ⁷ Yencken, D. & Porter, L., 2001, *A just and sustainable Australia. ACOSS Paper 115, September*, The Australian Collaboration. Melbourne: ACOSS, p.41
- ⁸ Commonwealth Grants Commission, 2001, *Report on Indigenous Funding 2001*, Commonwealth of Australia.