

Submission

to

SENATE SELECT COMMITTEE ON THE
ADMINISTRATION OF INDIGENOUS AFFAIRS

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Summary of Submission

This submission reflects the views of the ACTU Indigenous Committee and therefore the Indigenous constituency of the ACTU.

The ACTU expresses concern at the provisions of the *Aboriginal and Torres Strait Islander Commission Amendment Bill 2004* which seeks to abolish a nationally elected self-determining structure, to be replaced by a Government-selected group of 'representatives'; and concern at moves to abolish a duly elected body without addressing the ramifications for self determination. Should the Bill be passed Indigenous Australians will be left with no duly elected representative voice.

ACTU Policy on Aboriginal and Torres Strait Islander peoples supports self-determination by stating the following:

"Aboriginal and Torres Strait Islander peoples are the First Nations peoples of Australia, and as such, have a distinct and inalienable set of rights. The right to self-determination is the paramount of these."

The ACTU opposes the passing of the Bill to abolish ATSIC until such time as an alternative structure can be negotiated with Aboriginal and Torres Strait Islander peoples.

The ACTU further opposes any moves by the Government to appoint a group of Indigenous peoples as 'representatives'.

The ACTU opposes the 'mainstreaming' of programs.

The rights of workers previously employed by Aboriginal and Torres Strait Islander Services (ATSIS) must be protected.

Terms of Reference (a)

- (a) *"the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004;"*

ATSIC was established in 1990 to give Indigenous Australians an elected representative body and voice.

In his *Foundations for the Future statement*¹ on introducing proposals for the establishment of ATSIC in 1987 the Hon. Gerry Hand MP stated:

"Whilst achievements have been made in recent years, there is a need to understand properly and to address seriously the vital issue of self-determination for Aboriginal and Islander people. In the past there has been a misunderstanding of what Aboriginal and Islander people have meant when talking of self-determination. What has always existed is a willingness and desire by Aboriginal and Islander people to be involved in the decision-making process of government. It is the right of Aboriginal and Islander people as citizens of this country to be involved in this process, as ultimately these decisions will affect their daily lives. We must ensure that Aboriginal and Islander people are properly involved at all levels of the decision-making process in order that the right decisions are taken about their lives. Aboriginal people need to decide for themselves what should be done – not just take whatever governments think or say is best for them.

I believe this package of proposals addresses these needs. It is not simply a symbolic move but one of substance that provides a real foundation for the future. Until all Australians recognise this need for self-determination, recognise the Aboriginal and Islanders' pride and dignity as a people and until Aboriginal and Islander people can take their rightful place as full and equal participants in the richness and diversity of this nation, our claims to being a civilised, mature and humane society sound hollow."

The ACTU expresses concern at the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 which seeks to abolish a nationally elected self-determining structure, to be replaced by a Government-selected group of 'representatives'; and concern at moves to abolish a duly

¹ The Hon. Gerry Hand MP, *Foundations of the Future statement*, Hansard, 10 December 1987.

elected body without addressing the ramifications for self determination. Should the Bill be passed Indigenous Australians will be left with no duly elected representative voice.

The Human Rights and Equal Opportunity Commission Social Justice and Human Rights for Aboriginal and Torres Strait Islander peoples Information Sheet describes self determination in the following ways:²

“The right to self-determination, which is a process where Indigenous communities take control of their future and decide how they will address the issues facing them.”

“Self determination:

Self Determination is an ‘on going process of choice’ to ensure that Indigenous communities are able to meet their social, cultural and economic needs. It is not about creating a separate Indigenous ‘state’. The right to self determination is based on the simple acknowledgement that Indigenous peoples are Australia’s first people, recognised by law in the historic Mabo judgement.

The loss of this right to live according to a set of common values and beliefs, and to have that right respected by others, is at the heart of the current disadvantage experienced by Indigenous Australians. Without self determination it is not possible for Indigenous Australians to fully overcome the legacy of colonisation and dispossession.”

In a media conference, held on the 15th April, 2004, the Prime Minister John Howard, and the Federal Minister for Immigration and Multicultural and Indigenous Affairs, Senator Amanda Vanstone stated that at the resumption of Parliament in May, they would “introduce legislation to abolish ATSIC...with immediate effect from the passage of the legislation” and “abolish regional councils by the 30th June, 2005”.³

The Prime Minister announced:

² HREOC Web Site

³ Transcript of the Prime Minister the Hon John Howard MP joint press conference with Senator Amanda Vanstone, Parliament House, Canberra (from <http://www.pm.gov.au/news/interviews/Interview795.html> accessed 28.04.04 12.32pm)

“ATSIC itself will be abolished with immediate effect from the passage of the legislation. The regional councils will be abolished by the 30th of June 2005. ... We will not replace ATSIC with an alternative body. We will appoint a group of distinguished indigenous (sic) people to advise the government on a purely advisory basis in relation to aboriginal (sic) affairs. Programmes will be mainstreamed”

Fundamentally, the Federal Government is proposing and implementing a mainstreaming agenda. The Government is ideologically opposed to the notion of Indigenous selected separate representation, as Prime Minister Howard expressed during the media conference:

“We believe very strongly that the experiment in separate representation, elected representation, has been a failure.”

ATSIC Review

Between November 2002 and June 2003, a three member panel, comprised of John Hannaford (Chair), Jackie Huggins and Bob Collins was established by the Government to:

“examine and make recommendations to government on how Aboriginal and Torres Strait Islander people can in the future be best represented in the process of the development of Commonwealth policies and programmes to assist them.”⁴

Over 50 submissions were received and a range of discussions were held with targeted stakeholders. Approximately \$1m was spent on the review, which produced a discussion paper and a final report, neither of which recommended the mainstreaming of Indigenous programs.

⁴ Australian Government (2002) *ATSIC Review – a review of Indigenous participation in the development of Commonwealth Policies and Programs* from www.atsicreview.gov.au (accessed 11.05.04 11.46am)

The review's report, "*In the Hands of the Regions – a New ATSIC*"⁵ recommended a range of reforms, the primary of these being, as the report's title suggests, giving greater control over program and policy development to ATSIC regional structures. The review supported the need for a nationally elected voice for Indigenous peoples, but recommended changes to the make-up of this body, including the establishment of a national executive to govern the 'new ATSIC'. It supported the notion of the 'separation of powers' between the elected and administrative arms of the organisation, but recommended that this be done through reunifying ATSI and ATSIC and enacting legislative change in order to demarcate the roles of the elected and administrative arms of the organisation.

It is not the intention of this submission to provide a critique of the ATSIC Review. ATSIC's own response to the review⁶, along with the response of the Human Rights Commission's Aboriginal and Torres Strait Islander Social Justice Commissioner⁷ raise a range of issues with the review team's final report. Both documents support the notion of strengthening ATSIC's roles and powers at National, State and Regional levels.

Practical problems with the Government's position

The initial premise of abolishing ATSIC and the subsequent roll-out by the Secretary of the Department of the Prime Minister and Cabinet, of the broad parameters of a new way forward raise a range of issues for Aboriginal and Torres Strait Islander peoples, and the Australian community more generally. In his statement to abolish the Commission, Prime Minister Howard linked the outcomes of the review process to the Government's decision-making processes. He stated that:

⁵ Australian Government (2003) *In the Hands of the Regions – a New ATSIC* from <http://www.atsicreview.gov.au/ATSIC%20Review%20report.pdf> (accessed 11.04.05 12.26pm)

⁶ see ATSIC (2004) *A Stronger ATSIC Regionally and Nationally* http://www.atsic.gov.au/News_Room/Media_Releases/Default.asp?id=3039

⁷ see Jonas, Dr Bill (2004) *Social Justice Report 2003 – Human Rights and Equal Opportunity Commission, Aboriginal and Torres Strait Islander Social Justice Commissioner, Sydney* (from http://www.hreoc.gov.au/social_justice/sjreport03/index.html - accessed 25.05.04 1.11pm)

“But as a result of it, we’ve come to the very firm conclusion that ATSIC should be abolished and that it should not be replaced, and that programmes should be mainstreamed and that we should renew our commitment to the challenges of improving outcomes for Indigenous people in so many of those key areas.”⁸

There are a number of problems with this position. Firstly, as mentioned above, in spite of extensive consultation with members of the Aboriginal and Torres Strait Islander community, the government has chosen to largely ignore the findings of their own review. They have chosen instead to put in place a structure which relies on non-Indigenous benevolence and patronage of Indigenous peoples and clearly ignores the rights of Indigenous peoples, as the first Australians, to self-determination, particularly at a national level.

Secondly, there is ample evidence to support the fact that the mainstreaming of Indigenous services and programs has not lead to any greater improvements in outcomes than Indigenous controlled services and programs. Further, Altman and Hunter⁹, drawing on evidence from the practical reconciliation decade, argue that there *“was relative decline over the (practical reconciliation) period in educational and health status”* for Indigenous Australians. Health and Education are the two largest ‘mainstreamed’ portfolio areas.

Thirdly, the Federal Government-commissioned Commonwealth Grants Commission (CGC) *Indigenous Funding Inquiry*¹⁰, argues for a greater role for Indigenous peoples, agencies and representative structures in the allocation of funding. The CGC outlines a range of possibilities in relation to the

⁸ Transcript of the Prime Minister the Hon John Howard MP joint press conference with Senator Amanda Vanstone, Parliament House, Canberra (from <http://www.pm.gov.au/news/interviews/Interview795.html> accessed 28.04.04 12.32pm)

⁹ Altman and Hunter (2003) *Monitoring ‘practical’ reconciliation: Evidence from the reconciliation decade, 1991–2001* Centre for Aboriginal Economic Policy Research, Australian National University, Canberra – page 12 (from http://www.anu.edu.au/caepr/Publications/DP/2003_DP254.pdf accessed 11.05.04 3.03pm)

¹⁰ Commonwealth Grants Commission (2001) *Indigenous Funding Inquiry* Commonwealth of Australia, Canberra (from <http://www.cgc.gov.au/> accessed 11.05.04 4.14pm)

allocation of program funding and the implications for the roles of the Commonwealth and States in Indigenous Affairs, including:

“Allowing ATSIC and its regional councils to play an increased strategic decision-making and influencing role” (page xvii).

It is therefore clear that in spite of a range of self-commissioned reviews, reports and inquiries, the Government has taken a political position which, unless it leads to a substantial increase in Indigenous involvement in decision-making, will result in an erosion of the hard earned gains of Indigenous peoples to have a say in managing their own affairs. It is not evident in the Government’s position that giving Ministers, including the Minister for Aboriginal and Torres Strait Islander Affairs, a greater role in decision-making over the lives of Aboriginal and Torres Strait Islander peoples will lead to the reduction of disadvantage in Aboriginal and Torres Strait Islander peoples’ lives or greater input by Indigenous peoples in to decision-making processes.

In commenting on the Government’s decision to abolish ATSIC, the Minister for Immigration and Multicultural and Indigenous Affairs the Hon Senator Vanstone¹¹ stated:

“But it is over the last two years that we have really learnt from these COAG trials about the benefits of cooperation and working in a more effective way. With the cooperation of the Senate we will be able to do it.”

As discussed in more detail below, that the COAG trials and Productivity Commission work have created a range of accountabilities, which will hopefully have an impact on the accurate collection of Indigenous data, can only be seen as a positive measure. This however, does not signify the need to abolish the rights of Aboriginal and Torres Strait Islander peoples in Australia to determine their own futures and develop representative structures which are appropriate, particularly at a national level. It must also be noted

¹¹ Hansard; 11 May 2004; Response to Question without Notice; Senator Bartlett; page 22755; Senate

that no evaluations have been conducted on any COAG trial site and therefore it might be premature to base future operational processes on COAG without full evaluation.

Although it is early days, one of the initial outcomes of the COAG trials is that where given the opportunity, it is communities who are best able to determine decision-making structures that are most appropriate to them. This premise must also be reflected at a national level. The abolition of ATSIC without the opportunity for Indigenous peoples to determine a replacement body can only be seen as an erosion of the most basic and fundamental human rights.

There are currently only 8 regions engaged in the COAG trials. Additionally, the Government has recently begun the roll-out of 28 Indigenous Coordination Centres (ICC's) as a part of the ATSIC reform program. Initially 22 ICC's were based in remote and rural areas. This raises the issue of how government organisations relate to those communities who are not engaged in the trial sites and/or do not live in rural and remote Australia. Establishing I.C.C.'s in metropolitan centres was an afterthought of the Government's decision. At this stage it does not appear that I.C.C.'s in Capital cities will operate in the same manner as their counterparts in rural and remote Australia as they will not be a one stop shop. This is because staff who previously worked in these locations have been mainstreamed and moved to other agencies. Data shows us that the highest proportion of Aboriginal and Torres Strait Islander peoples live in capital cities¹². Aboriginal and Torres Strait Islander people remain at the bottom of every social and economic indicator regardless of whether they are located in metropolitan, urban or remote areas. More emphasis should be given to access to services based on the needs of the community rather than distribution based only on location.

¹² ABS (2003) 4713.0 *Population Characteristics, Aboriginal and Torres Strait Islander Australians* from <http://www.abs.gov.au/Ausstats/abs%40.nsf/> (accessed 21.05.04 10.20am)

It is clear that the right to maintain a voice and structures that are appropriate to the Aboriginal and Torres Strait Islander community is an ongoing requirement for success. Yet this right is fast being diminished. The Government has begun with the disbanding of the Aboriginal Legal Service network through tendering funding that was once specifically assigned, and if this trend continues, more Aboriginal and Torres Strait Islander specific agencies will follow.

ATSIC and Reform

Underpinning most of the debate in both the Indigenous and non-Indigenous communities is the recognition that ATSIC required reform. Issues (both genuine and illusory) such as governance, political leadership and accountability have plagued the Commission since its establishment in 1990. Many of these have been as a result of wide-spread misinformation. Indeed the passing of the ATSIC Act in Australian parliament is still characterised as one of the longest debates in the history of the House.

ATSIC as an agency has been widely held responsible for a range of portfolio areas that it does not have responsibility for, including health and education. In the 2002-03 financial year, ATSIC received \$1146m, less than half the Commonwealth Government's Indigenous-specific revenue of \$2.5bn, and much of that funding was quarantined for expenditure against the Community Development and Employment Projects (CDEP) program (\$484m) and the Community Housing and Infrastructure Program (CHIP) (\$233m)¹³ and was therefore non-discretionary.

Nevertheless, ATSIC as an agency has been held accountable for all of the problems in Aboriginal and Torres Strait Islander communities.

¹³ ATSIC (undated) *ATSIC: Where the Money has Gone* from http://www.atsic.gov.au/news_room/fact_sheets/money.asp (12.05.04 accessed 2.25pm)

One of the underlying issues with ATSIC as it was established is the question of mandated authority, which, due to the structure of the Commission's Electoral College, contributed to the questioning of the authority of elected representatives, particularly at a national level, where the Electoral College was three steps removed from the voting constituency. This is one of the negative consequences of overlaying a western, democratic system of governance with an Indigenous system of governance, where leaders are more often selected rather than elected.

This does not mean that a system cannot be created where the values and practices that underpin Indigenous governance cannot be accommodated. Indeed, such a system was suggested in the ATSIC review with particular reference to regional governance models, and has been adopted by the COAG trials. Further, it is foolish to suggest that Aboriginal and Torres Strait Islander peoples are not able to understand and adopt the principles of democracy in decision-making structures. This already occurs. There is now also the ensuing ideological conflict between 'allowing' communities to establish self-determining structures at a regional level (through the COAG trial process) but not at a national level.

Another missing element in the arrangement between ATSIC at a national level and successive Commonwealth Governments is the underpinning structure of a Framework Agreement. Whilst ATSIC campaigned at the national level for a Treaty, the Coalition Government opposed this notion as another form of 'symbolic reconciliation' but interestingly they have proceeded to roll-out a series of 'local agreements' labelled as "Shared Responsibility Agreements" through the COAG regional trials.

The allegations of misconduct which have been overplayed in the media have also lead to a loss of confidence amongst many members of the Aboriginal and Torres Strait Islander community towards some of the officials elected to represent them. Unfortunately, it is this that has become the 'headline news'. Positive aspects of ATSIC's work such as the roll-out of the Community Housing and Infrastructure Program (CHIP), capacity building through

regional councils, the development of framework agreements with State and Territory Governments, and the repatriation of human remains program (and many others) fail to rate a mention in the media.

Where to from here?

In relation to the future, there is a need for further discussions within the Aboriginal and Torres Strait Islander and broader communities on the future for Aboriginal and Torres Strait Islander self-determination in Australia.

The concept of self-determination for Aboriginal and Torres Strait Islander peoples is generally supported by Aboriginal and Torres Strait Islander communities, leaders and other interest groups. A broader debate about the types of structures and processes that need to be put in to place to support this occurrence needs to be facilitated. There is general consensus that rushing through the Bill to abolish ATSIC in the next sitting of parliament will not be beneficial, particularly to Aboriginal and Torres Strait Islander communities themselves.

There have been a range of calls from within the community¹⁴ for the Senate to oppose the passage of the legislation through parliament and to conduct an inquiry in to the potential impacts of the Government's proposed arrangements. The requirement for further consultation and discussion with Aboriginal and Torres Strait Islander peoples is considered imperative.

Aboriginal and Torres Strait Islander peoples have been marginalised during this paternalistic debate. In spite of this there is a sense of optimism from within the community that this is a watershed opportunity to re-define and re-build a new relationship between the arms of Australian government and Aboriginal and Torres Strait Islander peoples. This will only occur if political

¹⁴ See Williams, R (2004) *The Senate must act to stop the erosion of Indigenous representation* from <http://www.onlineopinion.com.au/view.asp?article=2217> (26.05.04 11.58am) and Australians for Native Title and Reconciliation (ANTaR) (2004) *Petition Requesting That Indigenous Voice to be Represented in Australia* ANTaR and Reconciliation Victoria

parties of all persuasions begin to engage in genuine dialogue about how we work together to transform the relationship between our country's First Nations peoples and the broader community.

The ACTU opposes the passing of the ATSIC Amendment Bill until such time as an alternative structure can be negotiated with Aboriginal and Torres Strait Islander peoples. *"A national Indigenous council which will have people appointed on the basis of their expertise"*¹⁵ does not meet this requirement.

As Patrick Dodson¹⁶ stated in his Reconciliation Week speech:

"But now the Government has by its own actions in removing our national voice unwittingly opened up a new opportunity for us all.

If political leaders are prepared to enter into a discussion, a dialogue with us, we now have an opportunity to realign the relationship between Indigenous Australians and governments at all levels.

...

We require a National Indigenous voice that has its authority grounded in support from Indigenous Australians.

It cannot be another artificial construct foisted on us by Governments who will determine what is acceptable. Agreements between Governments themselves must include the participation of Aboriginal people so that any new model is to have any chance of success.

The determining of how an Indigenous voice that represents the views and aspirations of all our peoples is established must be a matter for Indigenous people.

We must have available the necessary time and resources to identify the nature of the representation we require and it must be agreed by our people."

¹⁵ Hansard; 11 May 2004; Response to Question without Notice; Senator Bartlett; page 22755; Senate

¹⁶ Beyond the Bridges and Sorry National Reconciliation Week 25 May 2004 Great Hall of the Parliament.

Terms of Reference (b)

(b) *“the proposed administration of Indigenous programs and services by mainstream departments and agencies;”*

The ACTU opposes the wholesale ‘mainstreaming’ of programs.

Evidence shows that mainstreaming of program delivery does not work. Further there is no reason to believe that delivery of programs by mainstream agencies without input of Aboriginal and Torres Strait Islander people will be successful.

As discussed above, there is ample evidence to support the fact that the mainstreaming of Indigenous services and programs has not lead to any greater improvements in outcomes than Indigenous controlled services and programs. Altman and Hunter¹⁷, drawing on evidence from the practical reconciliation decade, argue that there *“was relative decline over the (practical reconciliation) period in educational and health status”* for Indigenous Australians. Health and Education are the two largest ‘mainstreamed’ portfolio areas.

The Human Rights and Equal Opportunity Commission (HREOC) Aboriginal and Torres Strait Islander Social Justice Commissioner, responding to the Government’s announcement that it would move to abolish ATSIC stated¹⁸:

“The vast majority of ATSIC’s funding has been quarantined for particular programme responsibilities, with limited ability to address a range of key issues facing Indigenous peoples. ATSIC is now being blamed for lack of progress by government in addressing issues for which it has no programme responsibility.

¹⁷ Altman and Hunter (2003) *Monitoring ‘practical’ reconciliation: Evidence from the reconciliation decade, 1991–2001* Centre for Aboriginal Economic Policy Research, Australian National University, Canberra – page 12 (from http://www.anu.edu.au/caepr/Publications/DP/2003_DP254.pdf accessed 11.05.04 3.03pm)

¹⁸ Statement on ATSIC: Dr William Jonas AM, Aboriginal and Torres Strait Islander Social Justice Commissioner, HREOC, 16 April 2004

Health, for example, has been a mainstream government responsibility since 1995. During that time we have seen chronic under-funding of Indigenous health services, estimated to total approximately \$350 million per year, and a worsening in key indicators of health status and only marginal improvements in others. Mainstream approaches to health service delivery have not been working for the last decade.

The story is the same with education and employment programmes – both are mainstream government responsibilities (with the exception of the CDEP scheme which ATSIC and now ATSIS runs). There has been very little progress in reducing the inequality gap between Indigenous and non-Indigenous people in these areas over the past five years.

The critical problem facing Indigenous people is the lack of a rigorous monitoring framework to hold the government accountable for its commitments and for mainstream service delivery.”

The roll-out of the mainstreaming approach

In a recent speech to launch “Connecting Government: Whole of Government Responses to Australia’s Priority Challenges”¹⁹, Dr. Peter Shergold, the Secretary of the Department of the Prime Minister and Cabinet, outlined what he called a “*bold experiment in implementing a whole-of-government approach to policy development and delivery*” in reference to the abolition of ATSIC and the “*embrace of a quite different approach to the administration of indigenous (sic) specific programmes and services*”.

Dr Shergold²⁰ contends that whilst the ‘new mainstreaming’ might involve a step backwards, that it will also involve a ‘bold step forward’ in becoming the ‘antithesis of old departmentalism.’ This ‘new approach’ is based upon the philosophy of whole-of-government service delivery currently being rolled out through the Indigenous Communities’ Coordination (ICC) trials established by the Council of Australian Governments (COAG) in November 2000 and underway in 8 regions across the country. The approach aims to draw together

¹⁹ Shergold, Dr P (2004) *Connecting Government: Whole of Government Responses to Australia’s Priority Challenges – Management Advisory Committee, Report No 4*, Department of Prime Minister and Cabinet, Canberra, (from

<http://www.dpmc.gov.au/docs/Shergold/200404.cfm> accessed 12.05.04)

²⁰ *ibid*

and coordinate government service delivery to Aboriginal and Torres Strait Islander communities, improve community governance through the devolution of responsibility through 'shared responsibility arrangements' to the community level and forge greater links between the community and business sectors. The principles of the approach have received bi-partisan and cross-jurisdictional support, including from those communities engaged in the trials.

In spite of this broad support, by some accounts there have been a range of Commonwealth-State jurisdictional issues in the roll-out of the COAG trials, which have resulted in the hold-up of agreements being signed and projects established. Nevertheless, the adoption of a new approach has been generally welcomed by the communities engaged in the trials as a positive step forward. These new arrangements have enabled a platform for priority setting, negotiation, resource allocation and the embedding of accountabilities into the performance agreements of Departmental Heads. As the trials are in their early inception, it is difficult to measure their successes or otherwise. There is a sense though that embedding accountabilities within government secretaries' performance agreements will encourage government departments to take greater ownership and responsibility for outcomes against headline and target performance indicators.

Additional accountabilities have been established through the work of the Productivity Commission's Steering Committee for the Review of Government Service Provision which was commissioned by COAG to develop a strategic framework to capture a baseline of the extent of Indigenous disadvantage. This has been captured in a report titled "*Overcoming Indigenous Disadvantage*."²¹ Through this work, three Priority Outcomes were identified, twelve Headline Indicators and seven Strategic Areas for Action were developed. Underpinning these is a range of Strategic Change Indicators

²¹ SCRGSP (2003) *Overcoming Indigenous Disadvantage Key Indicators 2003 –Report and Overview* – Commonwealth of Australia, Melbourne

which were chosen “*for their potential to have a significant and lasting impact in reducing Indigenous disadvantage*” (p xxxiv).

The creation of this range of accountabilities, which will hopefully have an impact on the accurate collection of Indigenous data, can only be seen as a positive measure.

However, there are a range of additional issues with the ‘new mainstreaming’ approach. Firstly, the area of relativities (outlined in the Government’s Terms of Reference to the Commonwealth Grants’ Commission) to determine disadvantage and those to determine outcomes are not equivalent. How can the Government measure Indigenous disadvantage by comparing Indigenous region to Indigenous region, and yet measure outcomes by the closing of the ‘gap’ between Indigenous and mainstream Australia? Surely the most effective measure of disadvantage is that of Indigenous Australia in comparison to non-Indigenous Australia?

Related to this issue of relativity is the issue of ‘targeting services’. As the Commonwealth Grant’s Commission²² found, mainstream Government service providers often avoid their responsibilities to Indigenous Australians, relegating service provision to the field of Indigenous programs, and thus Indigenous-specific funding is seen as the primary source of funding, rather than as supplementary. This entrenched bureaucratic view must be shifted before effective policy and funding arrangements can be influential.

Although there are some positive examples, particularly through the COAG trial process, the ACTU believes that most mainstream government departments do not have the capacity to work in equal partnership with Aboriginal and Torres Strait Islander peoples and communities. This includes

²² Commonwealth Grants Commission (2001) *Indigenous Funding Inquiry* Commonwealth of Australia, Canberra (from <http://www.cgc.gov.au/> accessed 11.05.04 4.14pm)

the inabilities of Governments and bureaucracies of all persuasions to radically re-define their relationship with Indigenous peoples and communities from the service delivery paradigm to an approach based on access, ownership and control.

Finally what is needed most is a bi-partisan and collaborative approach, based on the establishment of a long-term plan, including accountabilities and benchmarks. In Australia today, there is no long-term vision for the alleviation of Indigenous poverty or set measurements for the improvement of outcomes, in spite of the 'mobilisation of COAG'²³.

As Dr Bill Jonas, Social Justice Commissioner noted in his 2003 Report²⁴:

"... the government appears reluctant to relinquish any control over decision making or resource allocation and accordingly, that they have set a narrow basis for the relationship with Indigenous peoples.^[24] As noted in the previous chapter, the absence of any benchmarking and agreement of targets in the short, medium and longer terms also means that the government's approach lacks a longer term perspective to issues of funding, program design and implementation."

Further, Dr Jonas asserts that this approach serves to improve the effectiveness of the current service delivery approach rather than to transform it. He does note however, that there is potential for future radical transformation if the constraints of the current service-delivery approach can be lifted. As Dr Jonas argues this transformation will require serious focus on the key areas of capacity building and governance. A national representative voice for Aboriginal and Torres Strait Islander people has an important role to play in these key areas.

²³ Vanstone, A (2004) *Address to the Australian Government Executive Forum (SA) Friday, 20th February 2004*, from www.atsia.gov.au (accessed 25.05.04 12.50am)

²⁴ Jonas, Dr Bill (2004) *Social Justice Report 2003 – Human Rights and Equal Opportunity Commission*, Aboriginal and Torres Strait Islander Social Justice Commissioner, Sydney (from http://www.hreoc.gov.au/social_justice/sjreport03/index.html - accessed 25.05.04 1.11pm)

Terms of Reference (c)

(c) *“related matters.”*

The rights of workers previously employed by Aboriginal and Torres Strait Islander Services (ATSIS) must be protected. More importantly the rights of Indigenous workers must be protected. ATSIS employed over 450 Aboriginal or Torres Strait Islander staff and these staff have now moved from an environment that was Indigenous friendly and was sensitive to the culture and needs of Indigenous people to agencies where in some cases staff are isolated, and there is no concept of Aboriginal or Torres Strait Islander cultural values or kinship.