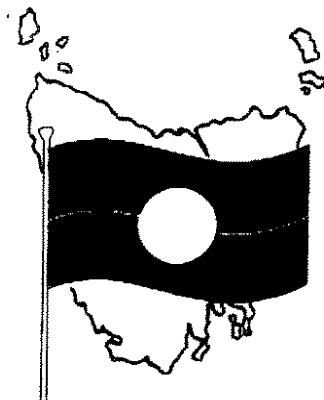


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Australian Senate
 Select Committee on the Administration of Indigenous Affairs
 Parliament House
 Canberra
 ACT 2600



SUBMISSION FOR A REPLACEMENT BODY FOR ATSIC

SUMMARY: leaving to one side the faults in the method used to sack ATSIC, the demise of ATSIC presents an opportunity for ideas to be put forward for its replacement. A replacement body should be bold and inventive. It should aim to meet the needs and aspirations of Aboriginal people into the foreseeable future and not be based on a knee-jerk reaction constrained by the atmosphere of political conservatism generated by the current federal government.

As far as political representation goes, the new body should be a form of government- one that is able to express the political desires of the people it serves, be directly accountable to them and be able to design the type of programs Aboriginal people need and want.

POWERS AND FUNCTIONS

The Aboriginal Government would operate with all powers needed to achieve its task with some existing authority of other governments being acquired by it, while yet others would be conceded. Planning and zoning, and education are examples of the former while parliamentary supremacy is one example of the latter.

METHOD OF ESTABLISHING MEMBERSHIP

The body should be made up of Aborigines either selected or elected by regional community groups. The current ATSIC boundaries can form the basis of the body's representation model with adjustments able to be made by the body consulting with Aboriginal people. Crucial to this model is the need for the Aboriginal Government and each delegate on it to be directly accountable to the local and regional Aboriginal groups. Consequently those who put a delegate onto the Aboriginal Government must be able to remove them, on notice and subject to due process, but at will. Similarly financial accountability must be to the Aboriginal population generally, as well as to local groups.

FUNDING THE BODY

Instead of the Aboriginal Government applying annually for funds, COAG would recommend to the Parliament each 5 years for a percentage of the gross domestic product to be allocated to the Aboriginal Government. A starting point might be 5%.

THE LEGAL FOUNDATION

The Aboriginal Government could be established by the Commonwealth alone under its powers to make laws for the benefit of any race - section 51 xxvi - or by agreement with the States relying on section 51 xxxviii. Alternatively a treaty could be the political and legal basis for the new tier of government.

The Aboriginal Government would not be another State for the purposes of the Constitution. It would be another tier of government along with the Commonwealth, the States and Territories, and local government. Its specific mandate would be to represent and advance the cause of Aboriginal people, and Torres Strait Islanders.

A GOVERNMENT OR A STATUTORY BODY

The justification for Aboriginal Government, instead of another statutory or advisory body, is:

1. it is an opportunity to put self determination in politics, policy, planning and administration to work;

2. it is time to look ahead and provide Aborigines with a real chance to make decisions instead of merely carrying out decisions made by other government structures;
3. other forms of government exist in Australia to effectively represent the interests of whites and/or immigrants (each having a sufficient population base to guarantee or increase their chances of representation through the ballot box); urban, rural and regionally located populations (through local government), and distinct communities (such as Norfolk Island), so why not also for Aborigines?

THE COAG

The Aboriginal Government would sit on COAG along with other governments. The existing functions of COAG, which includes a Secretariat for Commonwealth-State relations, can broaden its scope to include resolving issues with Aboriginal Government.

OBJECTS AND FUNCTIONS OF ABORIGINAL GOVERNMENT

Objects

The objects of the Aboriginal Government, in recognition of the need for Aboriginal people to enjoy the same rights to self determination as all other peoples, is:

- (a) to ensure maximum and meaningful participation of Aboriginal people and Torres Strait Islanders in the formulation and implementation of policies that affect them;
- (b) to promote the development of self-determination among Aboriginal people and Torres Strait Islanders;
- (c) to further the political, economic, social and cultural development of Aboriginal people and Torres Strait Islanders;
- (d) to ensure co-ordination in the formulation and implementation of policies affecting Aboriginal persons and Torres Strait Islanders, and
- (e) to act in accordance with the aspirations and dictates of the Aboriginal and Torres Strait peoples.

Functions

The Aboriginal Government has the following functions:

- (a) to formulate and implement programs for Aboriginal and Torres Strait Islanders;
- (b) to monitor the effectiveness of programs for Aboriginal people and Torres Strait Islanders, including programs conducted by other Governments and bodies;
- (c) to develop policy proposals to meet the needs and priorities of Aborigines and Torres Strait Islanders;
- (d) to promote self government within Aboriginal and Torres Strait Islander communities, and organisations;
- (e) to foster the standing of Aborigines and Torres Strait Islanders among the peoples of the world.

The areas of operation of the new body could include:

- Representation of Aboriginal views generally;
- Promoting self determination among the indigenous peoples;
- Distribution of monies
- Coordination of-
 1. reforms at the national and regional areas on legal, economic, planning, education and land issues;
 2. identifying areas of dispute or potential dispute between governments;
 3. implementing customary laws and promoting Aboriginal self policing mechanisms;
 4. land returns;
 5. culturally appropriate education curriculum and schooling;
 6. the arts;
 7. promoting indigenous language retentions and revivals;
 8. health, housing, legal and other services;
 9. economic development and
 10. reconciliation.

Yours faithfully


Michael Mansell