

**Submission of the National Assembly of
the Uniting Church in Australia and the
Uniting Aboriginal Christian Congress
to the Senate Inquiry into the
Administration of Indigenous Affairs.**

22 July 2004

The National Assembly of the Uniting Church in Australia, which is a church made up of Indigenous and non-Indigenous people, welcomes the opportunity of making a submission to the Senate Inquiry into the Administration of Indigenous Affairs.

This submission has been written in partnership with the association of Indigenous people within the Uniting Church in Australia, the Uniting Aboriginal and Islander Christian Congress.

Summary

The National Assembly of the Uniting Church in Australia and the Uniting Aboriginal and Islander Christian Congress, in accordance to longstanding resolutions concerning reconciliation and the rights of Indigenous peoples recommend:

- 1. The affirmation of the principle of self-determination for Indigenous peoples as essential for human rights, justice and national integrity and effective service delivery.*
- 2. The restoration of Indigenous Voice and Say by, after appropriately facilitated and resourced consultations with the Indigenous communities of Australia, re-establishing a peak national representative body and appropriate regional bodies for Indigenous peoples with primary roles in:*
 - representation and advocacy, including internationally (for the national body);*
 - providing the principal source of Indigenous policy advice to government;*
 - funding and oversight of service provision for Indigenous-specific services; and*
 - providing advice on mainstream policy and service delivery to government departments and agencies at a national as well as state and territory level, and in monitoring the performance of those agencies to agreed standards and benchmarks.*
- 3. Given that the establishment of a new national and regional Indigenous representative bodies will require the provision of resources and assets, that the current assets of ATSIC be preserved for transfer to the new bodies.*
- 4. The creation of Indigenous specific reserve seats in Federal parliament.*
- 5. The subsequent reversal of the current Federal Government's policy of 'mainstreaming' Indigenous specific-services.*

Protection of rights for Indigenous Peoples through the principle of self-determination.

According to international human rights standards, Australia is obliged to respect and protect Aboriginal and Torres Strait Islander peoples' right to self-determination. As a nation we must uphold the rights of Indigenous Peoples as First Peoples and also as citizens. The current bill to abolish ATSIC and its regional councils will breach these obligations in a number of respects.

Self-determination is best described as a process, not an end. Former Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr Bill Jonas suggests that self-determination

is a process of negotiation, accommodation and participation. Importantly, it is also about Indigenous peoples accepting responsibility and governments removing the controlling hand in order to ensure that such acceptance is meaningful and has consequences.

As historical participants in the process of colonisation, the Uniting Church recognises the mistakes of the past in ignoring the rights of Indigenous communities and not allowing for those communities to determine their affairs and their future. In 1985 the Assembly of the Uniting Church established the Uniting Aboriginal and Islander Christian Congress (UAICC) to enable Indigenous members, many of who lived in former mission/reserve areas of the previous denominations which make up the Uniting Church, to have a measure of self-determination. The UAICC is the Indigenous association of the Uniting Church which determines ministry by, to and with Indigenous communities. While this attempt at decolonisation has not been perfect, there are still issues around the appropriate level of human and financial resourcing required for the UAICC to effectively self-determine, the establishing of the UAICC signifies the Uniting Church's commitment to self-determination as the most effective way to address past unjust practices and provide for the betterment of Indigenous communities. Various reports by the Indigenous Social Justice Commissioner of the Human Rights and Equal Opportunity Commission have demonstrated the need for self-determination as a principle for Indigenous rights and advancement.

The Federal Government has demonstrated opposition to the concept of self-determination and opposes the use of the term in the UN Draft Declaration on the Rights Of Indigenous Peoples. In relation to the proposed bill, significant self-determining rights of Indigenous peoples are negatively affected. The bill does not provide Indigenous peoples with the right to choose their own representatives or to any meaningful involvement in decision-making affecting Indigenous communities including the provision of services.

For us, it is not just a matter of principle and human rights. We believe and have stated in various publications in the past two decades that self-determining rights for Indigenous communities are central to addressing the severe disadvantage and

systemic discrimination faced by Indigenous Australians. Without self-determination, Indigenous peoples will become passive subjects to policies of assimilation. Self-determination and community control are critical to any process of addressing poverty for Indigenous people. The historical and current-day context for Indigenous disadvantage is that of the colonial process of dispossession, relocation and racism which meant that Indigenous communities had no rights and were not allowed to determine their lives. Government intervention or 'service delivery' in the past was basically a means of controlling the Indigenous population. Self-determination and community control restores rights and responsibilities to the Indigenous community and enables the needs of Indigenous people to be met in a culturally appropriate manner. Much harm has been committed in the name of acting in "their best interests". Indigenous disadvantage is best addressed through processes that empower communities to control their own futures and develop a sound economic base. This is in contrast to policies and practices that promote and maintain a situation of welfare dependency and posit service delivery as an adequate response to addressing Indigenous poverty.

Without effective national and regional representative Indigenous bodies speaking out on matters of policy Indigenous Australians will too easily become vulnerable to the vagaries of government policy. Self-determination enables a more effective way for issues of cross-cultural misunderstanding to be dealt with in an appropriate way.

We therefore recommend:

1. The affirmation of the principle of self-determination for Indigenous peoples as essential for human rights, justice and national integrity and effective service delivery.

Representation

Following from the principle of Indigenous self-determination, it is essential that any replacement for ATSIC at national and regional levels must be determined by and in consultation with the Indigenous peoples of Australia. One of the issues ATSIC faced was the fact that it was a Western model imposed on the Indigenous peoples of Australia, rather than a model which arose from a process of consultation.

In order for Indigenous communities to be self-determining they must be able to determine who represents them locally, regionally, nationally and internationally and they must also determine *how* they are to be represented. We would particularly emphasise the role of regional councils as they are closest to their communities and in the best place to ensure appropriate service delivery. The national body should consist of representatives of regional bodies and function as a national executive. We would also suggest that the Federal Government should look at the New Zealand model where there are reserved seats in parliament for Indigenous people. This would allow for an effective input into the mainstream political process and enable a greater understanding of Indigenous Australia in the Federal parliament.

The proposed bill and the related administrative arrangements will deny this fundamental human right. The Government's suggestion for a Government appointed advisory Indigenous body effectively removes the right of Indigenous people to meaningful involvement in decision-making affecting their lives and communities.

At this stage it is important to look at what the Federal Government's own ATSIC Review panel said in its report last year.

Principles for a 'new ATSIC'

During its preliminary round of consultation, the review panel established key principles which it believed should underpin a 'new ATSIC'. ... The principles were widely supported and remain:

- ATSIC should be the peak State/Territory and national body, which advocates for the development of Aboriginal and Torres Strait Islander communities;*
- the regional councils (and relevant members of the national body) should provide the State/Territory policy interface with the governments coordinating regional activities;*
- representatives from each State/Territory should then constitute the national body, achieving a direct relationship between the regional, state and national levels;*
- the national body should provide the policy interface for the Australian Government setting and advocating a national strategic direction and monitoring progress against ATSIC's national plan to reinforce the accountability of program and service providers.¹*

¹ *In The Hands of the Regions*, Commonwealth Government of Australia, 2003, p.26.

The changes suggested by the bill and Government policy are contrary to the Government's own recent review of ATSIC which endorsed the need for elected Indigenous representation and greater control at a regional level. We believe that it is extraordinary that a million dollar review has been ignored to this degree.

Fundamental for self-determination and fundamental for successful service delivery is the principle that Indigenous peoples must be able to have a say and a voice in Indigenous policy, program and funding in any and all areas that impact on their lives. In terms of successful service delivery such a principle has been affirmed by the Productivity Commission.

In broad terms Indigenous peoples in Australia endorse the need for national and regional Indigenous representative bodies which reflect their values and aspirations and which is accountable to Aboriginal and Torres Strait Islander people. These bodies should be concerned with advocacy, policy advice to governments and have a determining say over the provision of Indigenous-specific services.

One of the clear recommendations of the ATSIC Review Panel was that the role of the regions needs to be strengthened and enhanced. The Federal Government's proposal is to abolish the regions in July 2005. It is clear that the Government's proposal is a severe and retrograde step and totally contrary to the recommendations of the review.

We therefore recommend;

2. The restoration of Indigenous Voice and Say by, after appropriately facilitated and resourced consultations with the Indigenous communities of Australia, re-establishing a peak national representative body and appropriate regional bodies for Indigenous peoples with primary roles in:

- representation and advocacy, including internationally (for the national body);*
- providing the principal source of Indigenous policy advice to government;*
- funding and oversight of service provision for Indigenous-specific services; and*
- providing advice on mainstream policy and service delivery to government departments and agencies at a national as well as state and territory level, and in monitoring the performance of those agencies to agreed standards and benchmarks.*

3. Given that the establishment of a new national and regional Indigenous representative bodies will require the provision of resources and assets, that the current assets of ATSIC be preserved for transfer to the new bodies.

4. The creation of Indigenous specific reserve seats in Federal parliament.

Mainstreaming

The proposed backward step into mainstreaming Indigenous services not only effects Indigenous rights but will diminish the positive impacts of service delivery. Our understanding of this issue comes from our historical experience of the negative social impact the loss of control by Indigenous communities have suffered during colonisation.

The reasons for poverty amongst Indigenous people and communities relate to the historical and on-going effects of colonisation and the fundamental racism inherent in our imposed political and social structures which arise from the lack of respect and rights given to Indigenous people.

The history of colonisation and dispossession has left Aboriginal and Torres Strait Islander Peoples significantly worse off than other Australians on virtually every measure of well-being. The implications of past and current policies toward Aboriginal people have meant that they enter modern Australian life from a position of extreme disadvantage.

The Royal Commission into Aboriginal Deaths in Custody in 1991, suggested that poverty indicators need to be sensitive to measurements of the improvement in quality of life, not just to conventional economic measures such as employment rates and cash income.² Poverty must be understood as comprising material, social and spiritual dimensions. The best method for addressing Indigenous poverty will be to further develop targeted strategies aimed at increasing the ability of Indigenous people to build a greater economic base and achieve education and employment outcomes on a par with the rest of Australian society. But this should go hand in hand with a coordinated human rights approach, which respects and adheres to the principle of self-determination, responds to resource deficiencies, community health, reducing interactions with the criminal justice system and gives consideration to Indigenous attachment to the land.

As pointed out by the former *Council for Aboriginal Reconciliation (CAR)* in its *Roadmap for Reconciliation*, addressing Indigenous disadvantage, respecting and protecting rights, economic empowerment and maintaining the process of reconciliation, are all factors in a holistic approach through which poverty, as well as basic justice and mutual understanding, can be addressed. As Dr William Jonas, Aboriginal and Torres Strait Islander Commissioner suggests:

There is insufficient understanding that Indigenous disadvantage is fundamentally an issue of human rights. ...

What is necessary is a systemic, integrated approach to Indigenous disadvantage, and one that is grounded in the principle of self-determination as essential for the full realisation of all other human rights.³

² Commonwealth of Australia 1991: 446.

³ Dr William Jonas, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Indigenous Disadvantage: Australia's Human Rights Crisis*, Paper delivered at ACOSS/ANTaR Seminar: Practical Reconciliation or Treaty Talks, 25 July 2001, p.1.

Given that the disadvantage is product of colonisation and on going systemic racism in our political and legal structures, any attempt to address disadvantage without understanding and protecting Indigenous rights and addressing foundational issues are likely to continue to be unsuccessful. Mainstreaming Indigenous specific services will create cross-cultural inefficiencies and a mistrust of service providers by the Indigenous communities they are supposed to service. Given the current difficulties faced by mainstream service providers to engage and effectively service Indigenous people, it is unrealistic to expect anything other than a continuance of this nation's appalling record in Indigenous poverty.

Evidence from Australia and overseas demonstrates that effective Indigenous involvement in decision-making and the existence of capable and culturally appropriate Indigenous institutions of governance is required to address Indigenous disadvantage.

ANU's Centre for Aboriginal Economic Policy Research (CAEPR) last year compared the performance of the Keating and Howard Governments on the absolute improvement in well-being of Indigenous peoples and improvement relative to non-Indigenous Australians. While the Keating Government pursued parallel 'rights' and 'practical' policies, the Howard Government's emphasis has been on so-called 'practical reconciliation' policies without addressing issues relating to human rights or the unique status of Indigenous people in Australia. The results showed further widening of the gap in well-being between Indigenous peoples in Australia and the non-Indigenous community and little difference in 'practical' outcomes after seven years of 'practical reconciliation' policies.

Governments, mainstream departments and agencies must be publicly accountable for the provision of services to Indigenous people. Such accountability must include rigorous monitoring frameworks and the ability for Indigenous people to exercise such accountability. The co-ordination of the delivery of services to Indigenous peoples in the regions is a critical issue. There must be effective means through which various government agencies can be co-ordinate so that Indigenous communities are not in the position where they are dealing with a myriad of government agencies. This is where regional councils can play a critical brokering role enabling service delivery in communities.

In Canada, where Indigenous communities have a self-determining role in service delivery to their communities, outcomes in areas such as health and education have been positive. Self-determination and self-management through appropriate Indigenous controlled bodies have achieved positive outcomes and should be the model upon which Australia bases its policies if we are to be serious about improving the situation of Indigenous peoples in Australia.

The lack of accountability of governments, mainstream departments and agencies in the delivery of services to Indigenous people has enabled governments to scapegoat ATSIC as responsible for the failure to improve outcomes for Indigenous Australians. This is despite the fact ATSIC only controlled 15% of Indigenous expenditure, with governments controlling the remaining 85%, delivered through mainstream departments and agencies.

We therefore recommend;

5. The subsequent reversal of the current Federal Government's policy of 'mainstreaming' Indigenous specific-services.

We hope that this submission will assist the Committee's deliberations.

Respectfully submitted on behalf of the Assembly of the Uniting Church in Australia and the Uniting Aboriginal and Islander Christian Congress.

Peter Lewis

National Director - Covenanting

The National Assembly of the Uniting Church in Australia.

22 July 2004

Mr Jonathan Curtis
Committee Secretary,
Senate Select Committee on the Administration of Indigenous Affairs
Parliament House
Canberra,
ACT 2600
Email: Indigenousaffairs@aph.gov.au

Dear Mr Curtis,

Herewith, the Submission of the National Assembly of the Uniting Church in Australia and the Uniting Aboriginal and Islander Christian Congress to the **Senate Inquiry into the Administration of Indigenous Affairs.**

If possible we would welcome the opportunity to appear before the Committee to speak to this submission. Could you advise us of hearing dates once they are determined?

Thank you for your assistance in this matter.

Yours sincerely,

Peter Lewis
National Director - Covenanting