



**Submission to the Inquiry into Progress Towards National  
Reconciliation by the Senate Legal and Constitutional Reference  
Committee**

**Presented by NUS President  
Moksha Watts**

Prepared by Women's and Welfare Research Officer  
Rachel Standfield

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## **Introduction:**

The National Union of Students (NUS) is the peak student representative organisation in Australia covering over 650,000 students. NUS welcomes this opportunity to make a submission to the Senate Legal and Constitutional Reference Committee as it holds an Inquiry on Progress Towards National Reconciliation.

NUS submits that reconciliation is vital to the future of the Australian nation. Reconciliation is a process by which non-Indigenous Australians can come to recognise the impacts of colonisation on Indigenous peoples and address the ongoing disadvantage and discrimination faced by Aboriginal and Torres Strait Islander peoples. NUS recognises that for Indigenous people to realise social justice, remedies must acknowledge the past as well as looking at problems in the present, and overcome the legacy of racism, discrimination, dispossession and cultural destruction which have characterised Australian society since colonisation<sup>1</sup>.

## **The Government's Response:**

The Commonwealth Government took almost two years to respond to the final report of the Council for Aboriginal Reconciliation. Such a slow response can be seen as an attempt to derail the reconciliation movement. This is indicative of the divisive role that the Howard Government has played in all aspects of Indigenous affairs, an approach which is most strongly felt in the Government's continued refusal to apologise to the stolen generations.

When the Government's formal response to the CAR documents did arrive it was delivered with little publicity and contained little new information. The Human Rights and Equal Opportunity Commission's Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr Bill Jonas, described the Government's response as "underwhelming and minimal"<sup>2</sup>.

NUS condemns the Government for its failure to advance the reconciliation process and indeed to derail the important work of the Council for Aboriginal Reconciliation and to undermine the people's movement for reconciliation. The Government's actions work against social justice for all Australians and display a fundamental disregard for Indigenous peoples aspirations.

NUS is particularly concerned that the Government is refusing to take a lead role in advancing reconciliation:

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<sup>1</sup> NUS, "Policy of the National Union of Students Inc, 2002: Indigenous", NUS Melbourne, 2002, page 1.

<sup>2</sup> HREOC, "Press Release: Government approach to Reconciliation lacks direction and accountability", HREOC Sydney, 27 September, 2002.

*“The Commonwealth Government is only one entity to which the Council’s recommended strategy is addressed ...The Government views the Commonwealth role primarily as a practical one in which to make a substantial (but not exclusive) contribution of the resources necessary to meet the practical needs of Indigenous Australians.”<sup>3</sup>*

While it is important that the Commonwealth direct funds to programs to combat Aboriginal disadvantage, the Government must also make a concerted effort to sustain and lead the reconciliation agenda. NUS urges the Parliament to call the Government to account for its failure to take leadership on such a vital issue.

### **Education:**

The Government response recognises education as a crucial area for reconciliation, as outlined by CAR in the National Strategy to Promote Recognition of Aboriginal and Torres Strait Islander Rights. The Government response states:

*“The Government supports the strategy’s focus on education as an effective mechanism for promoting tolerance and understanding in our society, an appreciation of Indigenous heritage and culture, and a clear understanding of our nation’s heritage.”<sup>4</sup>*

NUS strongly supports a focus on education as a strategy to advance reconciliation. NUS views the university system, along with all other education, as an important forum for non-Indigenous students to come to a deeper appreciation of Indigenous culture and rights, while gaining a more complete view of the history of colonisation. It is for this reason that NUS supported compulsory Indigenous studies courses for students in the recent NUS submission to the Crossroads Review of Higher Education.<sup>5</sup>

This current review offers the Government an important opportunity to advance reconciliation through education. NUS noted with disappointment, however, that the Ministerial Discussion paper on Indigenous education does not go beyond a discussion of equity programs in the name of ‘practical’

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<sup>3</sup> “Commonwealth Government Response to the Council for Aboriginal Reconciliation Final Report – Reconciliation: Australia’s Challenge” Canberra, September 2002, page 15.

<sup>4</sup> “Commonwealth Government Response”, page 17.

<sup>5</sup> NUS, “Realities of Achieving Quality with Equity: NUS submission to the Ministerial Review of Higher Education”, September 2002, page 49.

reconciliation<sup>6</sup>. The paper does not seriously consider options to make the university system more appropriate for and relevant to the needs of Indigenous students and communities.

The discussion paper follows from a number of changes in the area of Indigenous education which have undermined the participation of Indigenous people in the university system, effectively working against reconciliation. The changes to ABSTUDY payments implemented in 2000 can be seen as an attempt to bring Indigenous students into the 'mainstream', the logic on which much of 'practical' reconciliation is based. The Ministerial Review stated that the goals of the changes:

*"included an alignment of ABSTUDY living allowances to the mainstream income support system and a related application of the mainstream income, assets and other means tests".<sup>7</sup>*

These changes were implemented against all advice and warnings from the Indigenous community, ABSTUDY advisers, the NTEU and NUS. Participation rates for Indigenous students dropped by 15 per cent in the following year. Research by Deakin university, on behalf of ATSIC, concluded that 94.3 per cent of the Indigenous students participating in higher education in 1998 would have been disadvantaged by the changes<sup>8</sup>.

In addition, the NTEU Indigenous Tertiary Education Policy Committee has noted that the level of Indigenous Support Funding per student has declined in real terms since 1996<sup>9</sup>. Appropriate levels of support funding are imperative to ensure the success of Indigenous students in the education sector.

NUS reiterates the call for the Commonwealth to implement reform to align the education system with Indigenous peoples aspirations. NUS believes that it is not simply enough to have more Indigenous students participating in a system which reflects the values and needs of only the white Australian population. In order to create a system based on substantive equality, there would need to be measures in place to reflect rights to cultural difference within the education system and these would be developed in conjunction with Indigenous people themselves.

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<sup>6</sup> DEST, "Achieving Equitable and Appropriate Outcomes: Indigenous Australians in Higher Education", Canberra, August 2002.

<sup>7</sup> DEST, "Achieving Equitable and Appropriate Outcomes: Indigenous Australians in Higher Education", Canberra, August 2002, page 7.

<sup>8</sup> "Analysis of the Proposed Changes to ABSTUDY on Indigenous Students", Final Report, May 1999, Deakin University.

<sup>9</sup> NTEU Indigenous Tertiary Education Policy Committee, submission to the Senate Inquiry in the capacity of public universities to meet Australia's higher education needs, 2001, page 14.

## **Practical Reconciliation:**

The Government response to the final CAR documents reaffirms its commitment to 'practical' reconciliation, however, this seems only to extend to the re-badging of existing programs to address Aboriginal disadvantage. The Government then claims that such efforts are steps towards reconciliation, when such programs are to facilitate levels of health, education and other basic rights, which non-Indigenous Australians take for granted. These programs for 'practical reconciliation' have been implemented without significant improvement in the level of Indigenous disadvantage. A focus on concrete and measurable outcomes is vital to make improvements in the lives of the most disadvantaged people in Australian society.

It should be remembered that such efforts to overcome Indigenous disadvantage were only one part of the CAR final documents, with other strategies devoted to sustaining the reconciliation process, recognising Indigenous rights, and achieving economic independence.

At the same time, when the Government dismisses the 'symbolic' aspects of reconciliation, it undermines the significant achievements of both CAR and the people's movement for reconciliation. Dr Jonas has stated that there "is a serious danger that the reconciliation walks from 2000 will be the high watermark of support for reconciliation, as national attention slowly dissipates"<sup>10</sup>.

And while the Council of Australian Government's initiatives to address disadvantage are welcomed, including the trials of a whole-of-government approach in ten communities, HREOC has again noted that they include no specific targets<sup>11</sup>.

## **Indigenous Rights:**

The Government response to the CAR National Strategy to Promote Recognition of Aboriginal and Torres Strait Islander Rights, points to Australia's signing of international human rights treaties as proof of its commitment to protecting Indigenous peoples human rights<sup>12</sup>. On a number of occasions over the last few years, however, UN committees have criticised Australia's human rights record,

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<sup>10</sup> Dr William Jonas, HREOC Aboriginal and Torres Strait Islander Social Justice Commissioner, "Statement at the Senate Legal and Constitutional References Committee Reconciliation Inquiry Media Conference".

<sup>11</sup> Dr William Jonas, "Statement at the Senate Legal and Constitutional References Committee Reconciliation Inquiry Media Conference".

<sup>12</sup> "Commonwealth Government Response to the Council for Aboriginal Reconciliation Final Report – Reconciliation: Australia's Challenge", Canberra, September 2002, page 18.

and the Government has consistently ignored and also undermined the findings of these committees. Signing up to international human rights treaties does not, in itself, guarantee the protection of the human rights of Indigenous peoples.

The Government's response to the final CAR documents states its commitment to 'common rights' for all Australians, and states that neither "the Government nor the general community, however, is prepared to support any action which would entrench additional, special or different rights for one part of the community"<sup>13</sup>.

The Government thus refuses to recognise Aboriginal and Torres Strait Islander peoples right to self-determination. While claiming to support 'meaningful opportunities' for Aboriginal people to control their own affairs, the Government response to CAR rejects the right of self-determination because it "carries the implication of a separate Indigenous states or states"<sup>14</sup>. NUS believes that such denial of Indigenous rights forces a logic of sameness on our society and is fundamentally a reworking of policies of assimilation.

### **Treaty:**

The implications of this logic of sameness in the treatment of Indigenous peoples can be seen in the refusal to negotiate a treaty with Aboriginal and Torres Strait Islander peoples.

CAR recommended a legislative process to deal with the unfinished business of reconciliation. The Government has rejected outright the negotiation of a treaty to recognise the rights and status of Indigenous peoples as the first peoples of Australia.

While supporting a 'continuing dialogue' without a treaty, the Government does not set out a timetable or process to resolve the unfinished business of reconciliation.

The Aboriginal and Torres Strait Islander Commission (ATSIC) in supporting a treaty process, has established a treaty think-tank, and a consultation process with Indigenous people around the country. NUS supports the development of a treaty between Indigenous and non-Indigenous Australians as an appropriate way to recognise the rights of Aboriginal and Torres Strait Islander peoples.<sup>15</sup>

NUS urges the Senate, in assessing the progress of the reconciliation movement, to advocate for a greater leadership role for the Commonwealth,

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<sup>13</sup> "Commonwealth Government Response" page17.

<sup>14</sup> "Commonwealth Government Response", page 19.

<sup>15</sup> NUS, "Policy of the National Union of Students Inc, 2002: Indigenous", NUS Melbourne, 2002, page 2.

and for the development of a legislated process, in full consultation with Indigenous people, to resolve the unfinished business that remains at the end of the ten-year life of CAR. NUS supports the negotiation of a treaty between Indigenous and non-Indigenous Australians as the best way to advance reconciliation.