



Australian Government

Indigenous Higher Education Advisory Council

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**Submission to the House of Representatives'
Aboriginal and Torres Strait Islander Affairs Committee
*Inquiry into language learning in Indigenous communities***

September 2011



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Indigenous Higher Education Advisory Council

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Aboriginal and Torres Strait Islander Affairs Committee
c/o Clerk Assistant (Committees)
House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Committee Members,

**Re: Submission to the Aboriginal and Torres Strait Islander Affairs Committee's
*Inquiry into language learning in Indigenous communities.***

Since its inauguration in 2004, the Indigenous Higher Education Advisory Council (IHEAC) has provided policy advice to Government on improving outcomes in higher education for Indigenous students and staff relating to their participation, retention and progression both in study and in employment.

The Council, now in its third term, reports to both the Minister for Tertiary Education and the Minister for Minister for Innovation, Industry, Science and Research.

The Council is pleased to provide the attached submission to the Committee's *Inquiry into language learning in Indigenous communities* and welcomes any future opportunity to provide advice on matters related to improving education outcomes for Aboriginal and Torres Strait Islander People.

Yours sincerely,

Professor Steve Larkin
Chair

26 September 2011

**Indigenous Higher Education Advisory Council Submission to the Aboriginal and Torres Strait
Islander Affairs Committee's
*Inquiry into language learning in Indigenous communities***

Key Recommendation:

- **That the Australian Government takes steps to develop and mandate graduate and professional standards for the teaching of Aboriginal and Torres Strait Islander students from non-English speaking backgrounds.**
- **That the Australian Government take steps to provide education to Aboriginal and Torres Strait Islander people in their traditional languages, consistent with its international commitments and obligations.**

The Indigenous Higher Education Advisory Council (IHEAC) welcomes the Aboriginal and Torres Strait Islander Affairs Committee's inquiry into language learning in Indigenous communities. The IHEAC particularly values the Committee's aim to investigate how the use of Indigenous languages can assist in improving education and vocational outcomes where English is a second language.

Closing the Gap and language learning

Regrettably, the gap between educational, health, social and economic achievements of Aboriginal and Torres Strait Islander children and the mainstream community are well known, well documented, and long-standing.

Closing these gaps will take a concerted Government effort that incorporates a wide range of policy responses, including those which harness the benefits of traditional Indigenous languages. This will require significant commitment and resourcing. While Australian citizens from a range of backgrounds face the challenge of mastering English as a second language, many Aboriginal and Torres Strait Islander children - particularly those in remote Indigenous communities - face the additional barrier of being fully immersed in a non-English speaking environment.

Whereas other non-English speaking children (e.g. first generation migrants) may be physiologically prepared by their parents to adapt to a new language environment, Aboriginal and Torres Strait Islander families may not necessarily share a similar outlook, and continue to live and raise their children in line with traditional values and in traditional language.

As a consequence, educational and social setbacks are propagated as students progresses through the educational system, creating and compounding deficiencies that are debilitating in many cases.

The role of higher education in language learning

IHEAC notes that the inquiry invites submissions on a number of issues, including the potential benefits of including Indigenous languages in early education. As a rigorous examination of these benefits is beyond the scope of IHEAC's submission, Council will work from the principle that there is a recognised benefit in the teaching and learning of Indigenous languages in Australian schools, consistent with Objective 5 of the Government's Indigenous Languages Policy.¹

In realising this objective, the higher education sector has an important role to play. As products of our universities, primary and secondary school teachers have front-line responsibility for improving education outcomes for Aboriginal and Torres Strait Islander students.

¹ *Indigenous Languages - A National Approach*. See: Objective 5 - Supporting Indigenous Language Programs in Schools: To support and maintain the teaching and learning of Indigenous languages in Australian schools.

While there is a growing pool of Aboriginal and Torres Strait Islander teachers, the numbers are still far too low to ensure that each Indigenous community school is staffed by Aboriginal or Torres Strait Islander teachers. Nor is it realistic to expect that those Aboriginal and Torres Strait Islander teachers in a community school will be of that community, and/or fluent in their students' traditional language.

Consequently, the teaching of Indigenous languages within Australian schools, and the ability to improve education outcomes in those Indigenous communities where English is a second language, will continue to fall in large part to non-Indigenous teachers.

To ensure that these teachers are well-equipped to Close the Gap, the Government must, at a minimum, require that all graduating teachers possess the knowledge and cultural capability to work with Aboriginal and Torres Strait Islander students who do not have full English language proficiency.

IHEAC notes that the Government has begun steps to develop best practice guidelines in teaching of Indigenous students, under the National Professional Standards for Teachers. IHEAC applauds this step, and strongly recommends that these guidelines include advice and strategies for teaching Indigenous students from a non-English speaking background.

IHEAC further recommends that skills and knowledge required to improve education outcomes in those Indigenous communities where English is a second language be recognised as a student attribute in all teaching qualifications, backed by the relevant regulatory agencies.

The Government's obligation to act

As noted, IHEAC welcomes the Committee's inquiry into language learning in Indigenous communities. Significant change however is required if Aboriginal and Torres Strait Islander people are to share the same life outcomes as the broader community.

As colonisation is responsible for the paradigm shift in Aboriginal and Torres Strait Islander people's lives and the structural disadvantage that persists today, so too does the onus fall upon the Australian Government to take the necessary steps to reverse the situation.

The Government's obligation to act, particularly in the teaching of Indigenous languages in Australian schools, is clearly apparent when one applies the various "best interests of the child" tests of the Australian legal system.

In addition to these domestic instruments, a range of international legal instruments require the Australian Government to ensure that Aboriginal and Torres Strait Islander People have access to education in their traditional languages.

The *United Nations Charter* Article 1(3) provides that:

To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.

These provisions are reiterated in numerous Articles² of the *Universal Declaration of Human Rights*, most significantly in Article 26:

- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

² See for example Articles 2 and 27 of the Universal Declaration of Human Rights, GA Res 217 (III), UN GAOR, 3rd Sess, Supp No. 13, UN Doc A/810 (10 December 1948).

The *International Covenant on Civil and Political Rights* contains similar safeguards³, in particular Article 27:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Similarly, the *Convention on the Rights of the Child* provides that:

Article 30: In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

As a State party to each of these legal instruments, the Australian Government has an obligation to act, in line with the *Vienna Convention on the Law of Treaties*:

Article 26: "*Pacta sunt servanda.*" Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27: *Internal law and observance of treaties.* A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

And as a final impetus to act, the *United Nations Declaration on the Rights of Indigenous People (UN DRIP)* contains a range of Articles⁴ that seek to protect the rights of all indigenous peoples to culturally-appropriate education and development. While the UN DRIP is not a legally binding instrument under international law, IHEAC strongly encourages the Australian Parliament to give effect to its provisions, the most significant of which (for the purpose of this submission) is Article 14:

Article 14.

- (1) Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
- (2) Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
- (3) States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

In ratifying (or in the case of the UN DRIP, endorsing) the above legal instruments, successive Australian Governments have acquiesced to international law obligations, including that that Indigenous people have a right to education in traditional languages. IHEAC urges the House of Representatives' Aboriginal and Torres Strait Islander Affairs Committee to encourage the Parliament to honour these undertakings given by the Australian Government to the international community.

³ See for example articles 24 and 25 of the *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976.)

⁴ See for example Articles 1-3, 8.1, 13, 17.2, and 23 of the *United Nations Declaration on the Rights of Indigenous People*, GA Res 61/295, UN GAOR, 61st Sess, 107th plen mtg, Supp No 49, UN Doc A/Res/61/295 (13 September 2007.)