

Australian Greens – additional comments

Introduction

The Australian Greens support the comments and recommendations in the committee chairperson's report. However, we wish to make additional comments and recommendation on several matters.

The Aboriginal and Torres Strait Islander Amendment Bill 2004 [2005]

The Greens do not support the government's proposed abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC). The government has failed to genuinely consult those people affected by the proposal, Indigenous Australians. The government has failed to propose a suitable alternative to ATSIC. We acknowledge that there are varying views among Indigenous communities about ATSIC but there is widespread support throughout Indigenous Australia for a national representative body chosen by Indigenous communities. The government has failed to address this issue.

The government also has failed to adequately explain how its new model involving consultation at local and regional level will operate once the ATSIC regional councils are abolished, as provided for in the bill. Nor has the government committed to fund new representative bodies at regional and community level.

The government will deny Indigenous input to important forums and processes, such as the National Health and Medical Research Council, the Environment Protection and Biodiversity Conservation Act, the Human Rights and Equal Opportunity Commission, and international forums, in particular those that seek to advance the rights of Indigenous peoples.

Further, the government has set up a most undesirable potential conflict of interest by transferring ATSIC's authority to determine which bodies to fund for advancing native title claims to a federal government department.

A government selected advisory panel is no substitute for the representative voice of Indigenous people and their direct participation in the affairs of government that affect them. Effectively muted, particularly at a national level, Indigenous Australians will be relegated to the sidelines of decision-making about their lives and future.

The deeply-rooted disadvantage that Indigenous Australians endure and the rightness, both morally and in international law, of redressing this disadvantage and ensuring the survival and flourishing of Indigenous culture demands a genuine commitment to self-determination. The government's proposals on representation and 'mainstreaming' of service delivery run counter to what is required.

For all these reasons, the Australian Greens reject the abolition of Indigenous Australia's national representative body.

Recommendation 1: That the Senate not pass the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 [2005].

National representative body

A robust and well funded national representative Indigenous body is critical to self-determination and efforts to redress Indigenous disadvantage. The government has failed to propose a replacement representative body for ATSIC. The Greens believe that the government must facilitate the establishment of a national representative Indigenous body which it will respect as an authoritative voice.

One of the important roles that ATSIC undertakes is to advance the rights of Australia's Indigenous peoples in international forums. The abolition of ATSIC and the absence of an alternative national representative Indigenous body means this vital role will cease. The main report recommends (recommendation 4.2) government support and funding for a national representative Indigenous body but does not mention a role for the body in international forums. The Australian Greens consider it essential that a new national representative Indigenous body play a role in international forums to advance the interests of Indigenous peoples.

Recommendation 2: The government commit to acknowledging a new national representative Indigenous body as the appropriate body to represent the views of Indigenous Australians at international forums.

Regional Partnership Agreements

Regional Partnership Agreements (RPAs) are to be negotiated with local communities about services for those communities. The main report notes (paragraph 5.38) that the government has failed, however, to explain exactly with whom it will negotiate these agreements. There can be no genuine participation for Indigenous people in this process without adequate representation. It is critical, therefore, that regional representative Indigenous bodies be involved in these negotiations. Given the relative disadvantage of Indigenous communities, that requires a government commitment to fund such regional representative bodies. This is one reason for continuing the regional councils and guaranteeing them public funding to undertake this task.

These bodies may or may not be legislated but they must be backed with Commonwealth funding. One potential funding source is the appropriations no longer allocated to ATSIC and not required for IBA and the ILC.

Recommendation 3: The government retain the ATSIC regional councils and guarantee them funding that is adequate to undertake their tasks. These regional councils should be involved in negotiating Regional Partnership Agreements.

In the event that local communities seek to replace their regional councils with another representative model, the government facilitate the establishment of local and/or regional representative bodies which are to be funded by the Commonwealth. The functions of these bodies shall include negotiating Regional Partnership Agreements.

Shared Responsibility Agreements

The main report (paragraphs 5.98 -5.126) deals with a number of problems about Shared Responsibility Agreements (SRA) and the evidence of several witnesses who raised concerns about them. While the committee says the distinction between fundamental rights and discretionary benefits is nebulous and must be monitored, the Australian Greens are deeply

concerned about the concept of these agreements, what they might entail, and the consequences for communities and individuals of entering into them.

We note the statement by the Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma in November 2004 in which he said:

'It would be unacceptable for Indigenous peoples to be denied basic citizenship services that all other Australians take for granted.'

He added that the proposed introduction of coercive measures to achieve creation of sustainable improvements in the circumstances of Indigenous peoples will not work and may, in fact, exacerbate the extent of poverty, marginalisation and powerlessness.

Given the entrenched disadvantage of Indigenous people, and their extreme material poverty compared to other Australians, it is extremely difficult to imagine how agreements of this nature might be negotiated by two equal parties.

We have already witnessed an agreement which linked two essential requirements that have nothing to do with each other. The much publicised Mulan agreement ties essential health services and parental behaviour to fuel for transportation, which is not a luxury in a remote area.

There is no doubt that redressing Indigenous disadvantage while respecting the right of Indigenous people and communities to self-determination is an enormous challenge. It is made particularly challenging by the remoteness in which some communities live. Regardless of these difficulties, the Australian Greens are of the view that these kinds of agreements are not the answer. They have about them a tenor of paternalism which has no place in the management of Indigenous affairs in this nation. However, recognising that the SRAs are being negotiated, the Australian Greens making the following recommendation about them.

Recommendation 4:

- a) **Shared Responsibility Agreements must not contain any coercive requirements;**
- b) **Shared Responsibility Agreements must not relate to the provision of essential and other services which are provided by government to non-Indigenous Australians;**
- c) **Shared Responsibility Agreements must not place unrealistic expectations on Indigenous communities to redress past failures of governments or service delivery agencies;**
- d) **Every Shared Responsibility Agreement must be in conformity with the provisions of the *Racial Discrimination Act 1975*;**
- e) **Guidelines for developing Shared Responsibility Agreements are to be developed and reviewed in consultation with the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Race Discrimination Commissioner and a new national representative Indigenous organisation;**
- f) **The Minister must table in the parliament guidelines for developing Shared Responsibility Agreements;**
- g) **The roles of the Aboriginal and Torres Strait Islander Social Justice Commissioner and the Race Discrimination Commissioner be expanded to cover oversight of Shared Responsibility Agreements, with additional funding provided to enable this.**

The ongoing failure of mainstreaming

The Greens are not as positive about mainstreaming as the government or the bulk of comments in the main report. We acknowledge the distinction between 'old' and 'new' mainstreaming that the government is seeking to make but believe that it is clear from the evidence received that both the problems of 'old' mainstreaming continue to exist and a new set of problems around the co-ordination of 'new' mainstreaming must now be confronted.

The 2003 Review of ATSIC rejected mainstreaming as an option and international experience shows that the best outcomes for Indigenous people occur when they exercise control over those decisions in culturally appropriate institutions. (Mr Glendenning, Australians for Native Title and Reconciliation, Proof Committee Hansard, 2 February 2005, p60.) These problems of 'old' mainstreaming will continue to exist in the government's new model.

The new problems of the government's model of 'new' mainstreaming centre on the difficulties of co-ordination, and central to this appears to be the role of the Indigenous Coordination Centres. The committee heard evidence about the difficulties for ICCs in creating a cohesive, common vision because each lead agency has a different purpose and function. These difficulties are exacerbated by staff from different departments being paid different wages, working under different conditions and answering to different ministers and performance requirements.

Witnesses spoke about the difficulties that the new managers of ICCs were having in learning about both the communities they were now to advocate for and work with as well as learning to find their way through a maze of government departments and Indigenous specific or other relevant programs. South-East Queensland zone ATSIC Commissioner Robbie Williams told the committee:

The OIPC manager Shane Williams, who is the state representative, has just come over from education to the old ATSIC. Shane is trying to come to terms with how it works, and he has to negotiate with all these other government departments. He is virtually walking from the pot into the fire, and he is trying to restructure all this stuff and negotiate and work with all these other government departments – and he comes from an educational background. You virtually need a community development background now to be able to develop those skills, especially when working with diverse groups like those in Queensland. In south-east Queensland alone you might have forty traditional clan groups, and Queensland has one of the strongest, most vocal black communities in Australia. (Committee Hansard, Brisbane, January 31, 2005, p15.)

Another difficulty for the operation of ICCs is the level of delegated authority that ICC managers are given. This issue is discussed in the main report.

There appears to be a lack of clarity in the role of ICCs. The government contends that ICCs are not to be direct service delivery shopfronts. Clearly a different impression has been given to the committee as on seven occasions during the public hearings and in the main report Senators, predominantly government Senators, have referred to ICCs as one-stop shops. If the government Senators on the committee inquiring into the government's new arrangements are left with a different impression from the government about the central role of ICCs then how

can Indigenous community members be expected to comprehend the government's intentions?

The committee has not heard evidence to suggest that the government is sufficiently prepared to deal with these and other potential difficulties.

The Greens believe that the government needs to acknowledge the failure of mainstreaming in Australia and overseas, and commit to a genuine process of self-determination where Indigenous Australians are the primary decision-makers in the decisions that affect their lives, especially the delivery of services.

Senator Kerry Nettle
Australian Greens Senator for NSW

