



Submission to the Senate Select Committee on the Administration of Indigenous Affairs

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Senate Select Committee on the
Administration of Indigenous Affairs
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Summary

Oxfam Community Aid Abroad (OCAA) does not advocate a particular specific model for an alternative to ATSIC and ATSIS. These are primarily matters for Indigenous Australians, Indigenous organisations and their key stakeholders to provide comment on.

However, OCAA has previously stated its belief that the abolition of ATSIC should be halted until an alternative representative structure based on the explicit wishes and participation of Indigenous Australia, is in place. However, given that the Federal government has begun to effectively dismantle ATSIC and ATSIS, this is a difficult position to continue to advocate.

Accordingly, OCAA recommends:

- That there remains an elected Indigenous body within government with responsibility for the development, representation and advocacy of evidence based public policy advice to State and Federal Governments and international bodies and forums.
- That self-determination principles should underpin the structure and role of such a body, including Indigenous ownership of policy and programs affecting Indigenous peoples, and gender equality.
- That the role and structure of such a body be determined in negotiation with Indigenous stakeholders. In particular, the informed consent of Indigenous women, and Indigenous women's organisations should be sought.
- That the broadest possible range of Indigenous stakeholders – and in particular Indigenous women – have a meaningful opportunity to assess and determine the nature of a model for service delivery most appropriate for their needs. The wider the involvement of, and control by Indigenous people in determining the nature, pace and objectives of change, the more likely it will be that the changes will be effective, sustainable and accord with Indigenous needs, priorities, values and aspirations.

- Processes and structures directed toward policy development and service delivery must reflect the importance of the achievement of rights of indigenous people - particularly self-determination - as an essential part of any strategy to achieve positive change, while also ensuring the accountability of these structures back to indigenous people and communities.
- That the body retains a defined role in holding other government departments and agencies to account for improvements in service outcomes for indigenous Australians.
- An apology to the Stolen Generations and their families, a true commitment to a Treaty process - supported and strengthened by the already established range of state and national level agreements – and constitutional reform remain critical aspects of a healthier and more effective relationship between Australia's Indigenous and non-Indigenous peoples and institutions.

Introduction

Oxfam Community Aid Abroad welcomes the opportunity to provide comment on the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004, the proposed administration of Indigenous programs and services by mainstream departments and agencies, and related matters.

Oxfam Community Aid Abroad works with indigenous peoples in approximately 20 countries, including Australia, where we have run community development programs for many years. In this submission, Oxfam Community Aid Abroad does not purport to represent the views of indigenous Australians. Rather, OCAA's primary interest is in maintaining and enhancing the basic rights of indigenous peoples with whom we work.

Oxfam Community Aid Abroad takes a rights based approach to its work on poverty, injustice and suffering. This approach reflects the view that poverty and suffering are primarily caused and perpetuated by injustice between and within nations, resulting in the exploitation and oppression of marginalised peoples.

This rights-based approach to development further implies that States have obligations and citizens have rights expressed through international covenants, agreements and commitments. These include, amongst others, the United Nations Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, all of which highlight the right to self determination as central to the international human rights framework.

Silencing of Indigenous Voice

ATSIC had an important mandate to provide a mechanism whereby the voice of indigenous men and women were heard in all phases of service delivery and policy development. ATSIC also played an important role in advocating for indigenous rights at an international level.

The Federal Government has already begun dismantling ATSIC and ATSIIS despite the fact that the ATSIC Amendment Bill has not yet been passed through Parliament. The Federal Government has proposed that indigenous input into policy development at a national level will be obtained from a panel of indigenous experts appointed by and providing advice to government. The ATSIC Amendment Bill also provides for an ongoing role for Regional Councils until June 2005, although in a largely advisory capacity.

OCAA is concerned that, in such an important field as indigenous policy development, the Federal Government's proposal for an appointed indigenous council will be construed as intolerant of dissenting voices. The Federal Government may be viewed as working with only those indigenous people it chooses to engage with, on issues defined by the government, and in a capacity in which advice can be easily ignored.

It is important to retain an indigenous body within government to maintain the legitimate influence of indigenous Australia over government policy. Such a body should continue to be an elected indigenous body to ensure the meaningful involvement of indigenous people in decision-making affecting their lives and communities. It is also desirable for such a body to have access to the cabinet policy development process.

ATSIC has rightfully played a significant advocacy role on issues including Aboriginal Deaths in Custody, mandatory sentencing, the Stolen Generations and the *Native Title Act*. It is important that any future structure and role for an indigenous body within government is able to continue to advocate on behalf of its constituents and to ensure input from Aboriginal and Torres Strait Islander peoples in government policy making at all levels.

Further, the Federal Government needs to ensure that it is open to working with indigenous representatives as determined by indigenous people, and in regard to the issues, concerns and aspirations as identified by indigenous people.

Holding Government to Account

ATSIC has been scapegoated for the failure of all sectors of government to deliver positive social change across a range of sectors. However, mainstream departments, agencies and organisations need to be held to account also.

The abolition of ATSIC proposed by the ATSIC Amendment Bill – and effected by the Federal Government before the legislation is passed - reduces the capacity for indigenous scrutiny of Government policy and practice.

An indigenous body within government has a crucial role to play in ensuring, not only that it remains accountable to its constituency, but that other government departments also take seriously their accountability for service delivery and the necessary involvement of Indigenous peoples in policy development and practice.

Support and sufficient resources need to be provided to an indigenous body within government, and to indigenous organisations in order for them to undertake this role of monitoring, evaluating and auditing in an effective manner.

The critical role of self-determination in achieving positive practical outcomes

The right to self-determination is enshrined in international human rights law. Yet, in its discussions of reforms to ATSIC, the government has provided further evidence of its antipathy toward self-determination for indigenous Australians and perpetuated its false distinction between 'practical' and 'symbolic' measures.

The government has expressed that its goal is 'to improve the outcomes, opportunities and hopes of Indigenous peoples in areas of health, education and employment' and that 'the experiment in separate representation... for indigenous people has been a failure'. As stated above, ATSIC has been scapegoated for the failures across government to deliver outcomes in these areas, with health and education in the above instance being responsibilities of 'mainstream' departments.

Alan Morris, Chairman of the Commonwealth Grants Commission (CGC), discussed inadequacies of mainstream service delivery identified in the CGC's 2001 Inquiry¹:

"Mainstream services do not meet the needs of Indigenous Australians to the same extent as they meet those of non-Indigenous Australians. They do not meet the needs of Indigenous people because of barriers to access. These barriers include the way programs are designed, how they're funded, and the cost to users. In remote areas there are additional barriers to access arising from the lack of services and the long distances necessary to access those that do exist. Some initiatives have been taken to address access problems and these are important but fall well short of the across-the-board improvements in access needed to address the existing disadvantage of Indigenous people".

¹ Alan Morris, 2002. "Indigenous Governance in Australia: Lessons from the Commonwealth Grants Commission's 2001 Inquiry". Paper presented to the Reconciliation Australia Indigenous Governance Conference, 3-5 April 2002, Canberra.

The CGC Report on Indigenous Funding (2001) report states that one of the key principles to promoting “a better alignment of funding with needs...(is) the full and effective participation of Indigenous people in decisions affecting funding distribution and service delivery”.

The findings of the Harvard Project on American Indian Economic Development go further to indicate that indigenous people require strong roles in making decisions on issues that affect their lives, resources and communities. This Project provides Australia with international evidence that the distinction between ‘practical’ and ‘symbolic’ measures is a false one, and that self-determination is a necessary factor in positive social and economic change. The Harvard Project sought to identify the key characteristics contributing to successful economic development on North American Indian communities.

The findings, as discussed by Harvard Project co-director Professor Stephen Cornell², identify that a government policy of self-determination, or sovereignty, is a critical factor in successful economic development of Aboriginal communities:

“For the better part of a century—since at least the late 1920s - the United States government has tried to find ways to overcome poverty on Indian lands. Its policies have ranged from on-site assimilation to the relocation of Indian peoples into U.S. cities to the termination of Indian reservations. In all that time, self-determination—putting genuine decision-making power in Indian hands—is the *only* federal policy that has worked. It is the *only* federal policy that has had any lasting, positive effect on socioeconomic conditions in Indian Country. The evidence is clear: the best way to perpetuate reservation poverty is to undermine tribal sovereignty; the best way to overcome reservation poverty is to support tribal sovereignty”.

The Report of the Inquiry into Capacity Building and Service Delivery in Indigenous Communities (2004) indicated that “governments must relinquish some control to Aboriginal and Torres Strait Islander people and Aboriginal and Torres Strait Islander people must assume greater responsibility in shaping their own future”. Cornell argues, though, that indigenous people cannot be expected to be accountable for outcomes unless they also have “power over meaningful decisions”, and become “primary decision-makers in their own affairs”. As suggested by the CGC report, this enables indigenous people to identify and apply resources more effectively to their needs and priorities, with a long-term strategic focus.

² Cornell, Stephen. 2002. “Governance and Economic Development: Harvard Project on American Indian Economic Development”. Paper presented to the Reconciliation Australia Indigenous Governance Conference, 3-5 April 2002, Canberra. Cornell co-founded the Harvard Project on American Indian Economic Development in 1986, and continues to co-direct the project.

As well, the Harvard Project identified a critical need for indigenous formal institutions to have credibility amongst their constituencies. Indigenous people must support and believe in these bodies if they are to succeed. Decision-making control must also be linked with good governance - the separation of powers, power checks and balances, and so forth.

Cornell suggests that, while an approach grounded in self-determination reduces disadvantage experienced by indigenous people, it also results in benefits - including cost savings - to non-indigenous people and governments. A policy of self-determination is a "win-win" arrangement, benefiting all citizens.

In the current discussion relating to the provisions of the ATSIC Amendment Bill and 'mainstream' service delivery, these themes reflect the need for a our Federal Government to support and improve indigenous people's meaningful engagement with government at all levels. It should not be taking steps to undermine effective and meaningful participation of indigenous people.

The Federal Government should assist and support the development an alternative elected body within government in the wake of the (actual if not legislative) demise of ATSIC. This body should be built on a recognition of the critical requirement of a policy of self-determination - as an end in itself but also as a means of achieving positive social and economic change. It should have strong governance - including solid transparency and accountability - and a structure and method of work determined and supported by Indigenous Australians themselves.

Furthermore, the Federal Government should work cooperatively with indigenous leadership as identified by indigenous people themselves.

Beyond ATSIC: Broader issues

In addition to the immediate issue under discussion - the reform and restructuring of Australia's indigenous elected national body - the Federal Government should address broader issues relating to the fundamental relationship between indigenous and non-indigenous peoples and institutions. There remains a need for an apology to the Stolen Generations and their families, a true commitment to a Treaty process - supported and strengthened by the already established range of state and national level agreements. The Australian Government should also promote and pursue constitutional change which enshrines indigenous rights to ensure indigenous rights are not undermined in changes of government and government policy.