

COMMONWEALTH GRANTS COMMISSION

INDIGENOUS FUNDING INQUIRY

SUBMISSION

From: Northern and Central Land Councils
(Joint submission)

Submission No.: IFI/SUB/0006

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1. The Northern and Central Land Councils

The Northern and Central Land Councils are statutory representative bodies, established under the *Aboriginal Land Rights (Northern Territory) Act 1976*.

The Land Councils, among other things, are charged with the statutory responsibility to protect the interests of traditional Aboriginal owners and other Aborigines with interests in land in the Northern Territory (NT).

2. Aboriginal People in the Northern Territory

While Aboriginal people comprise over one quarter of the Northern Territory population, own approximately 50% of the land mass and 84% of the coastline, the level of participation in the “boom economy” of the Northern Territory is negligible.

On every available social and economic indicator, Aboriginal people languish at levels which raise serious questions over the human rights of Aboriginal peoples.

For example, the Australian Bureau of Statistics *Census of Population and Housing: Aboriginal and Torres Strait Islander People, Northern Territory 1996* demonstrates that Aboriginal people have an unemployment rate three times that of non-Aboriginal people and median incomes approximately half of non-Aboriginal people. Measy M, d’Espaignet E and Cunningham J, *Adult Morbidity and Mortality due to Tobacco Smoking in the Northern Territory 1986-1995*, 1998 report that Aboriginal men die 19 years younger than their non-Aboriginal counterparts and Aboriginal women die 14 years younger than their non-Aboriginal counterparts. Death rates adjusted by age are 2.3 times higher for Aboriginal men than non-Aboriginal men, and 2.9 times higher for Aboriginal women than non-Aboriginal women.

According to the Northern Territory Government (NTG):

Among the many things that make the Northern Territory unique is the high proportion of Aboriginal people making up our population: 28.5%. This compares with just 3.2% in the state with the next highest proportion of Aboriginal people.

Aboriginal people own 42% of the Territory’s land (with a further 11% under claim) and 84% of the Territory’s coastline under the Aboriginal Land Rights (Northern Territory) Act 1976. Much of the land and coastline is rich in natural resources.

Despite being “land-rich”, Aboriginal Territorians are over-represented in unemployment statistics. While Aboriginal Australians were a relatively healthy population at the time of European settlement, their average lifespan today is some 20 years less than that of the average non-Aboriginal Australian. Many Aboriginal students continue to have poor literacy and numeracy outcomes and are not attending school regularly enough to make substantive academic progress. Overcrowding affects 54% of indigenous households in the Northern Territory. Aboriginal Territorians are more likely to use Government services – which, because 80% of Aboriginal Territorians live in remote or rural regions, are more expensive to provide than in urban centres

(Foundations for Future – Foster Partnerships in Aboriginal Development
<http://www.nt.gov.au/foundations/strategy4/index2.htm>)

3. Concerns over Government Expenditure

Indigenous organisations in the Northern Territory have long been concerned that government expenditure on Aboriginal people in the Northern Territory has been inadequate, and that funds specifically allocated for Indigenous service provision, and funds which should be allocated for Indigenous service provision as part of general funding, has not reached Aboriginal people on the ground.

These concerns have direct bearing on the task of the Inquiry to “help the Commonwealth ... direct its expenditure to better meet the needs of indigenous people” and to “understand what services the Commonwealth State and local governments provide to meet those needs.”

4. Access to Information

Access to information and data required to make definitive conclusions and appropriate recommendations concerning expenditure in the Northern Territory has simply not been made available by the Northern Territory Government (NTG).

The refusal of the NTG to introduce Freedom of Information legislation gives little room for optimism that this situation will be changed.

The Inquiry is, in the Land Councils’ opinion, obliged to take whatever action is necessary to obtain and interpret data concerning expenditure of both tied and untied grants in the Northern Territory.

Moreover, a key recommendation from the Inquiry must be for transparency and accountability of all Commonwealth funds allocated towards the Northern Territory.

The Land Councils submit that due to a history of secrecy, inadequate reporting and data collection, a condition of any Commonwealth grant to the Northern Territory should be best practice standards of transparency and accountability including an obligation for on-going data collection, reporting and statistical analysis.

5. Reports and Submissions

Numerous reports and submissions, over the years, including previous CGC Inquires, have raised concerns over NT expenditure and accountability. (See for example, Crough G, Howitt R and Pritchard B, *Aboriginal Economic Development in Central Australia*, and Christophehrson Combined Aboriginal Organisations of Alice Springs, Alice Springs 1989, Smith D, *Estimating Northern Territory Government Program Expenditure for Aboriginal People: Problems and Implications*, Centre for Aboriginal Economic Policy Research, ANU, 1992 and Fletcher C, *Grounds for Agreement: an Evaluation of the Response of the Northern Territory Government to the Aboriginal Land Rights (Northern Territory) Act 1976*, NARU Report No 7, 1998)

5.1 The Collins Report

The most recent report commenting on aspects of these concerns is *Learning Lessons: An Independent Review of Indigenous Education in the Northern Territory*, Northern Territory Department of Education 1999 (also known as the Collins Report).

This report identifies three key points of significant note to this Inquiry:

- Despite significant annual government expenditure on Aboriginal education over \$130 million in 1998 – and the additional \$90 million of IESIP supplementary funding provided over the last ten years – NTDE can only demonstrate marginal achievement in some outcomes by Indigenous students in our schools. (1999:54)
- The review considers the failure to access significant, available Indigenous education resources from the Commonwealth, despite having by far the greatest Indigenous student population proportion in Australia, to be an inexcusable management oversight. (1999: 55)
- The Northern Territory Government levies IESIP funds used for salaries at a rate of 46.1% for ‘on-costs’. ... On-costs in other states range from 45 to 18.6%. (1999: 57)

6. The Indigenous Constitutional Strategy, Northern Territory

The *Indigenous Constitutional Strategy, Northern Territory* was produced pursuant to meetings at Kalkaringi (August 1998) and Batchelor (December 1998). The following section of that strategy clearly identifies concerns over funding and service delivery, and identifies policy objectives related to self-government and direct funding.

Aboriginal Self-Determination and Self-Government

1. That Aboriginal peoples, being the first peoples to own and govern this land, have the right to self-determination and that our inherent right of self-government must be recognised and protected in any Constitution of the Northern Territory.
2. That Aboriginal self-government shall be recognised as a fundamental right and a solution to the present disempowerment of the people of the Aboriginal nations of the NT
3. That a Northern Territory Constitution must contain a commitment to negotiate with Aboriginal peoples a framework agreement, setting out processes for the mutual recognition of our respective governance structures, the sharing of power and the development of fiscal autonomies.
4. Recognising the problems and inadequacies with the current financial arrangements for the provision of services to Aboriginal communities in the Northern Territory,
5. That there must be direct Commonwealth funding of Aboriginal communities and organisations and a process of review, in particular an investigation into NT Government handling of Commonwealth funds intended for the benefit of Aboriginal people.
6. That the Commonwealth establish an independent Commission of Inquiry to consider the experience of Aboriginal peoples under the *Northern Territory Self-Government Act 1978*, to review financial arrangements for the provision of services to Aboriginal communities and to make recommendations for future relationships between the Northern Territory Government and Aboriginal peoples.
7. That this Convention notes that there is a range of options from domestic and international jurisdictions that provide concrete expressions of the right of all peoples, including Indigenous peoples, to freely determine their political status, and further notes that, as a form of self-determination, Indigenous peoples have the right to self-government in relation to their own affairs. These include culture, religion, education, information, media, health, housing, employment, social security, economic activities, land, water and resources management, environment and entry by non-members.

8. The Convention considered a number of preferred options for self-government and resolves to delegate to its committee the task of investigating and reporting on the options for Aboriginal self-government in the Northern Territory in accordance with Aboriginal law.

Those models may include:

- the models of tribal and band governments established under Indian treaties legislation in the United States of America and in Canada;
- the emerging regional agreement models being developed in Australia;
- the Combined Aboriginal Nations of Central Australia;
- West Arnhem Regional Government model;
- Miwatj Regional Government model;
- the Torres Strait Regional Authority.

9. The Committee shall investigate all governance issues, including: direct funding from the federal government; identification of effective service delivery and relationships with other agencies, such as essential services, health, police; and relationships with other tiers and sections of governments.

7. The Current CGC Inquiry

7.1 Terms of Reference

The Northern and Central Land Councils are particularly concerned that the Terms of Reference for the Inquiry appear to be narrowly focussed on measuring the needs of indigenous communities relative to the needs of other indigenous communities.

The Land Councils submit that adopting such a narrow approach will be unproductive, and will not result in the necessary information to fulfil the Inquiry task of understanding need, better directing expenditure and deciding how those needs are best measured.

The Land Councils submit that needs and disadvantage of indigenous communities must be measured against the needs and services of the majority non-Indigenous population. The outcome of the Inquiry will be meaningless to addressing Indigenous disadvantage if the exercise is limited to re-distributing existing indigenous funding between communities.

The Land Councils submit that a more holistic approach is required to determining Indigenous need. Such an approach should examine the equitable entitlements of all Australian citizens to citizenship rights and the delivery of citizenship services. Such an approach would necessarily examine both the level and efficiency of funding to Indigenous people, and would not limit itself to comparisons within the Indigenous domain only.

7.2 Land Councils' response

The Northern and Central Land Councils submit that the scope and significance of the current Inquiry, the resources required to undertake the necessary research and consultation process, and the tight deadline for first written submissions, makes it impossible for the Land Councils to do anything more than identify the issues which need to be addressed by the Inquiry.

7.3 Information and data

In the Land Councils' opinion, the first priority of this inquiry must be to illicit the necessary information and data on which to make informed recommendations.

The Land Councils recommend that in addition to the process of written submissions, visits, public conferences, discussions and analysis leading to a draft report, the Inquiry would be best served by commissioning an independent economic analyst, acceptable to governments and indigenous organisations, to make a report based on the following remit:

1. Identify all Commonwealth moneys allocated to the Northern Territory since self-government in 1978.
2. Identify the rationale for the allocation of commonwealth moneys to the NT
3. Analyse the "money trail" by identifying where and how the grant of commonwealth moneys have been spent, including the level of funding reaching the target groups and the level of funding allocated to administration.
4. Identify the governments and agencies responsible for expenditure in the areas of housing, infrastructure, employment and training, health, and education services.
5. Analyse the effectiveness of expenditure in these areas with particular reference to the level of expenditure in the Indigenous domain, Indigenous influence and control over that expenditure, and the outcomes of programs measured against stated aims and goals of programs.
6. Analyse levels and proportions of expenditure in urban and remote areas and comment on the equity in allocation in terms of "per capita" and level of "disability" as per the CGC criteria.
7. Comment, where appropriate, on the ability of the NT Government to access and implement Commonwealth funding programs offering benefits or outcomes for Indigenous people.
8. Contrast and compare NT procedures in these areas with southern states and international best practice.
9. Comment on the transparency and accountability of NT government expenditure with reference to southern states and international best practice

7.4 CGC Draft Report

In the event that the Commission does not adopt the Land Councils' recommendation to commission an independent analyst, the draft report containing the Commission's preliminary conclusions should, as a minimum, include data, analysis and comment responding to the matters identified for consideration above.

Given that the Inquiry has set 22 December 2000 as a final date for written submissions to the Inquiry, the Land Councils recommend that sufficient time be allowed for analysis, discussion, consultation and comment on the draft report "which will be distributed in late 2000".

The Land Council submits that full and frank and comprehensive discussion, consultation and analysis of the draft report requires that it be available for public scrutiny and comment no later than 01 October 2000

8. Consultations with Indigenous Communities

The Land Councils assume that the Inquiry will have as one of its central aims the development of an effective and workable consultation process with the Indigenous peoples.

The Land Councils have over twenty years experience consulting with Aboriginal people in the Top End in order to fulfil statutory obligations to find out and express the wishes of Aboriginal people, and to consult with traditional Aboriginal owners to ensure consent is given prior to entering into any agreement.

Consequently, the Land Councils are best placed to facilitate consultations including organising meetings and providing information in format/s suitable for Aboriginal peoples in the Top End and Central Australia. The NTG, for example, has accepted that a Government tender for a Statehood Community Education Campaign to be conducted in the first half of 2000 could not proceed without Land Council involvement.

The Land Councils would be pleased to discuss with the Inquiry the most effective means of ensuring consultation is comprehensive and considered, and would be pleased to discuss with the Inquiry the resource implications of facilitating this process.

The Land Councils would consider that the gravity of the issues being considered would warrant a major representative forum similar to that organised for the Indigenous Constitutional Convention at Batchelor in 1998. The Land Councils would be willing to discuss with the Inquiry how the Land Councils could facilitate the organisation of such a forum.