

COMMONWEALTH GRANTS COMMISSION

INDIGENOUS FUNDING INQUIRY

FINAL SUBMISSION

From: Central Land Council

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Central Land Council Submission to the Commonwealth Grants Commission Draft Report of the Indigenous Funding Inquiry

21 December 2000

Overview

As stated previously, the Central Land Council (CLC) is concerned about the limited terms of reference for this Inquiry, in particular the constraints imposed on the Commonwealth Grants Commission (CGC) of measuring relative need. A far more useful process would have been to measure indigenous living standards against a national benchmark, and provide measures and costings to bring the indigenous population up to those national standards. The CLC, like many other Indigenous organisations, is very concerned that the main outcome of the existing Inquiry may simply be a redistribution of existing governmental resources between Indigenous groups rather than a properly costed process for addressing indigenous disadvantage over a specified period of time.

However, notwithstanding the constraints set by the Terms of Reference, the CLC welcomes the draft report. The draft report provides a thorough compilation of the statistics which clearly demonstrate the appalling social and economic conditions suffered by the majority of Aboriginal people in the CLC's region. Most importantly, the draft report touches on areas of profound significance to Aboriginal people in this region – the capacity to increase indigenous control over programs and services.

The CLC commends the Commission on the exploration of issues raised in Chapter 5 'Inter-Government Issues and Possible Ways Forward'. The CLC supports the suggested overarching principles for changes to the existing funding arrangements (Chapter 5, paragraph 46). The CLC recommends that Chapter 5 be expanded, allowing further exploration of these crucial issues, including the development of clear recommendations.

Measuring Relative Need

The CLC does not have the expertise to comment on the methodology being developed to determine levels of disadvantage. However, the CLC endorses the CGC's view that a formula based approach to resource allocation cannot be used by itself.

The CLC notes that the CGC has suggested that a national standard could be used as a common point against which the positions of each region can be measured and then ranked (Chapter 3, paragraph 28). The CLC would suggest that this be taken further and is perhaps one mechanism for overcoming the limitations imposed by the terms of reference of the Inquiry. If a national standard were to be developed, and each region were then to be ranked against that standard, then progress in reducing the gap between the existing situation (standard) and the national standard, over time, could be measured (to the extent that any reduction in the gap is occurring). While this approach in itself does not result in additional funding to indigenous programs and services, at a regional and national level the effectiveness of the current expenditure in eliminating the gap could be ascertained. It would also demonstrate that while the gap may be reduced in some regions as a result of the reallocation of existing funding, the net result for Indigenous people as a whole could also be measured.

The NT – A Special Case

The CLC understands the following to be the case for the NT:

- 74% of Northern Territory Government revenue comes from the Commonwealth (draft report)
- About half of these funds are paid in the form of general revenue assistance (over time this will be the revenue from the Goods and Services Tax). These funds are untied and can be used as the states see fit.
- The other half is paid as Specific Purpose Payments (SPP's) which have to be spent in accordance with specific conditions set by the Commonwealth. There are indigenous-specific SPP's and general SPP's.
- The Commonwealth also directly funds some programs and does therefore control funding priorities and arrangements for these programs. Commonwealth indigenous specific funding includes – infrastructure, housing and employment through ATSIC, Indigenous Education Direct Assistance (IEDA) and community controlled health initiatives.
- About 26% of the NT's revenue comes from NT Government-sources

The CLC submits that the final report must provide some specific focus on the funding arrangements for the NT. There are key reasons for this :

- Indigenous people in the NT are clearly amongst the most disadvantaged in the country – with Apatula and Tennant Creek being placed in the bottom 4 regions listed on the preliminary draft index.
- Only in the NT do Aboriginal people constitute a substantial proportion of the population – currently estimated in 1996 to be 28.5%.
- A massive 74% of the NT's revenue comes from the Commonwealth.
- The Commission has accepted that characteristics of the Aboriginal population contribute significantly to the NT's higher cost disabilities and consequent high per capita expenditure needs, resulting in this high level of allocated Commonwealth revenue.
- Its status as a Territory means that the Commonwealth has a greater level of responsibility and opportunity for intervention than in other states
- Recent reports, such as the Collins report into indigenous education, have revealed the high degree of cost shifting taking place, with the NT Government retaining high percentages of funds for administrative purposes.
- Government arrangements in the NT are far from transparent. Unlike every other state in Australia, the NT Government has refused to introduce Freedom of Information legislation.

As indigenous people in the NT are amongst the most disadvantaged in the country, presumably this will mean a greater proportion of funding will flow to these areas of need. However, the NT Government already receives a greater proportion of per capita funding than any other state. To date, these inflated levels of Commonwealth funding have done little to improve the circumstances of indigenous people.

The problems and inadequacies with the current financial arrangements for the provision of services to Aboriginal communities in the NT are evident to anyone who has visited or resides on a remote community. The appalling and unacceptable standards of living are not being redressed. The CLC maintains that the Commonwealth must undertake an inquiry into NT Government handling of Commonwealth funds intended for the benefit of Aboriginal people.

Recommendation 1.

That the final report specifically focus on the funding arrangements in the NT, making recommendations to specifically address the structural and institutional problems which entrench indigenous disadvantage.

Mainstream Services : Mainstream Problems

In 1987 the NT Government made a decision to mainstream service delivery to Aboriginal communities.

“The decision to mainstream was based on the philosophy that :

“The Territory is conscious of the fact that perceptions of separate development or different treatment underlie division in Australian society. The Territory’s move to place service delivery to the Aboriginal community has that in mind. (NT Government 1988:1364)”
(Crough, Pritchard 1990)

The results of this policy decision urgently need to be assessed and reviewed. Twelve years later, a significant proportion of the Aboriginal population of the Northern Territory are clearly not receiving their mainstream ‘citizenship’ entitlements – particularly in relation to health, education and infrastructure.

The main population centres of Darwin and Alice Springs, where the non-Aboriginal population of the Northern Territory is concentrated, benefit disproportionately from Commonwealth funding, the level of which is significantly determined by the disadvantages and social, geographical and economic situation of the Northern Territory’s Indigenous population. The CLC is well aware that many Aboriginal people in the Northern Territory believe that Commonwealth funds that are provided to the Northern Territory Government to ensure that that Government has the financial capacity to address Aboriginal disadvantage are not allocated to achieve any meaningful improvements in the social and economic conditions of most Aboriginal people. Meanwhile, supplementary Aboriginal funding is being relied upon to fill gaps in mainstream service delivery.

As the draft report says,

“Mainstream funders and service providers don’t always see their responsibility to indigenous people as clearly as they should. Too often, ATSIC is seen as a funding source for ‘citizenship’ services rather than a supplementary source to target indigenous needs.”
(Main Findings, para 94)

Further, the draft report finds that

“Some agencies appear to assume that all indigenous services and issues are to be addressed by indigenous specific funds or services. Changes must be made to emphasise that all people are entitled to a similar level of citizenship services, and that indigenous specific services are supplementary to mainstream services.” (Main Findings, para 95)

The CLC recognises that the disadvantages being experienced by the Aboriginal population of the Northern Territory cannot be overcome in one or two years. However, very high levels of per capital Commonwealth funding have been provided to the Northern Territory Government for more than a decade and there is little evidence of a reduction in Aboriginal disadvantage as a consequence of this funding. More than 20 years after Self Government basic citizenship entitlements are still not being provided to most Aboriginal people in the NT, despite the high per capita funding of the Northern Territory Government.

Recommendation 2.

That the final report make clear recommendations about what changes could be made to funding arrangements to ensure that mainstream citizenship rights are provided to Aboriginal people.

State Government Arrangements

- **General Revenue Assistance**

The distribution of general revenue funding between states does allow for differences in funding need due to the impact of indigenous people. The significant Aboriginal component for the NT becomes streamed into largely untied Commonwealth funds, for which the Commonwealth does not determine the allocation of the funds and measurable performance indicators. It is as though these funds become invisible.

The CLC, and many Aboriginal people, are concerned at the lack of transparency in the allocation of these funds by the Northern Territory Government.

According to a CAEPR Report No 30/1992,

“Identifiable NT expenditure on Aboriginal people across all program types represented 17% of its total budget for 1990-91. Given the continuing low economic status of NT Aborigines this level of expenditure is neither proportional to the Aboriginal population’s numbers within the total Territory population, nor, by the government’s own acknowledgment, adequate to overcome their economic disadvantage and the considerable backlog in infrastructure and community amenities. Nor does it appear to reflect the significance of the Aboriginal component in determining the Commonwealth’s general revenue payments to the NT.”

The CLC can only reiterate that a comprehensive overhaul of the Commonwealth-State financial arrangements are required to ensure transparency in the arrangements, ensuring that funding is clearly identified for specific purposes, and requiring outcomes-based reporting.

- **Special Purpose Projects (SPP’s)**

Specific Purpose Payments from the Commonwealth have increased as a proportion of total payments to the NT from 21% in 1987-88, over 28% in 1990-91 (Crough, Pritchard 1990), to approximately 50% in 1999-2000.

“The Commonwealth funds the NT Government by way of SPP’s at a rate more than four times the average of all of the States and Territories combined, and more than double, on a per capita basis, than the next highest State, Tasmania” (Crough, Pritchard 1990)

As the draft report correctly identifies, “The use of SPP’s provides the Commonwealth with a capability to influence how some of the funds it gives the States are spent. It can exert influence over State expenditures by negotiating criteria in the agreements covering the payments. Such criteria indicate the purposes for which the funds are provided, and the reporting and performance criteria associated with them” (Chapter 5, paragraph 18).

While the draft report indicates that the general trend is now against the Commonwealth imposition of ‘maintenance of effort and matching criteria’ on the States, the CLC would argue that given the NT’s poor record, there needs to be closer monitoring of the outcomes from the expenditure of these funds by the Commonwealth. Maximum flexibility does need to be maintained, but not at the expense of clear and mandatory reporting and outcome requirements.

The draft report finds that in many cases the SPP's are not achieving their stated objectives, encourage cost shifting, are expensive to administer and are not monitored for outcomes or effectiveness.

Recommendation 3.

The CLC recommends the following in relation to SPP's:

- rigorous enforcement of conditions on existing, renegotiated and new SPP's
- the introduction of additional conditions designed to specify outcomes for renegotiated or new SPP's

Local Government Funding Arrangements

The Commonwealth provides general revenue assistance and road grants to local government.

“Each local government grants commission is expected to distribute the funds in a way that recognises the needs of the indigenous people within their boundaries and achieves the Commonwealth's objective of ‘improving the provision by local governing bodies of services to Aboriginal and Torres Strait Islander Communities. Notwithstanding this objective of the Commonwealth, the funds it provides (including roads grants) are general revenue assistance and can be spent as the local council thinks appropriate.” (Chapter 5, para 21)

The CLC supports the recommendation from the Royal Commission into Aboriginal Deaths in Custody that funding for essential and local government services should not be dependent upon the structure of organisation which is adopted by Aboriginal communities for service delivery.

The NT Department of Local Government continues to weight operational funding in favour of those communities who have incorporated as Community Government Councils. In 1990 18 of 59 NT local governing bodies were incorporated under the *Northern Territory Local Government Act 1991*. In 1999 there were 31 Community Government Councils (incorporated under the Local Government Act), and 30 ‘association’ councils that are recognised as local government bodies.

Commonwealth Funding

The CLC strongly agrees that the existing arrangements do not :

- (i) acknowledge and adequately address the long-term disadvantage of the indigenous population;
- (ii) help build long-term capacity of indigenous communities to plan and manage services;
- (iii) encourage Indigenous participation, priority setting and decision-making; or
- (iv) deal effectively with non-funding issues such as co-ordination, fragmentation and cross-functional issues. (Chapter 5, paragraph 40)
- (v)

These findings combined with the conclusion that the Commonwealth's “greatest influence on the regional allocation of funds is when it allocates them directly to service providers.” (Chapter 5 para 39iii), gives great weight to indigenous communities' repeated calls for the provision of direct Commonwealth funding.

For many years indigenous people in the NT have been arguing for the capacity to receive direct Commonwealth funding. This position has been clearly put to the Commission in submissions and hearings since the early 90's. The Kalkaringi Statement 1998 states, "That there must be direct Commonwealth funding of Aboriginal communities and organisations."

Recommendation 4.

That the final report examine the options regarding direct funding as a mechanism with the potential to achieve indigenous control, produce desired outcomes, increase transparency and bypass the 'cost shifting' practices of the Northern Territory government.

While direct funding already occurs to some extent through ATSIC, indigenous communities are looking for a comprehensive direct funding package.

Ways Forward (p53)

The draft report correctly identifies the preconditions to achieving advances in the circumstances of indigenous people. These are fully supported by the CLC.

"45. The common themes in what has been put to us are that the preconditions for achieving advances in the circumstances of indigenous peoples and aligning resources to needs are that Indigenous peoples and organisations:

- (i) are enabled to participate fully in identifying needs and in decision-making associated with the provision of services to them;
- (ii) have increased fiscal capacity within the current resources;
- (iii) have control of service provision at the community level as far as practicable; and
- (iv) have the capacity to enter into productive collaborative arrangements with the primary providers of services to indigenous people – State (and local) Governments.

46. The overarching principles for changes to the funding arrangements could be to :

- (i) ensure that Indigenous people or their representative organisations directly influence as many aspects of needs identification, prioritisation and service delivery as possible;
- (ii) enable a long-term perspective of needs to be taken, thus providing a secure context for setting short-term goals;
- (iii) facilitate capacity and leadership building for Indigenous self-management;
- (iv) enable clear definition of roles of each level of government and other organisations to minimise duplication and overlap;
- (v) allow for the pooling of resources from as many sources as possible to address the needs in a multi-jurisdictional and cross-functional context;
- (vi) ensure that all relevant institutions have an active role in the service planning and delivery processes;
- (vii) enable community control of service provision as far as practicable;
- (viii) enable outcome management, monitoring and accountability mechanisms; and
- (ix) facilitate the collection of data to support decision-making, reporting, performance monitoring and program evaluation."

(Chapter 5, paragraphs 45 and 46)

The Commission is to be commended for the development of these criteria, and the CLC looks forward to the final report containing specific recommendations to progress their implementation.

- **Collaborative Arrangements**

The CLC fundamentally agrees that the objective of changing responsibilities would be to “give indigenous people an increased stake in the decision-making processes that seek to align funds and services with needs.” However, it is critical that this is taken one step further. Indigenous people need to be in control of the funding and processes that determine service delivery and programs to their communities. It is worth noting that genuine partnerships are only possible when the parties are on an equal standing. Collaborative arrangements need to be developed according to clear criteria which ensure that indigenous people have the numbers, support and resources to participate fully.

‘Collaborative partnerships’ with the NTG are not always collaborative nor do they necessarily deliver control to indigenous communities or deliver the desired outcomes. There may be situations where a collaborative arrangement with the NT Government is not the most efficient and constructive way forward. Again, indigenous people from this region want to maintain their capacity to deal directly with the Commonwealth.

The CLC supports the option of devolution of power and responsibility to a regional level. As articulated below, there are serious problems with the formation of state-wide decision-making processes.

At the other end of the spectrum, there are extreme difficulties with handing control directly to each community. Problems encountered may be :

- a lack of sufficiently skilled community members to adequately manage these processes
- the potential for family bias and family conflicts to impact on the effectiveness of the process
- expensive and duplicated administration costs
- the inability to consider issues at the regional level

- **State Level Indigenous Controlled Body**

The draft report canvasses the idea of a state indigenous-controlled body which might be responsible for allocating Commonwealth indigenous specific funds to regional or local service delivery processes. The draft report also states that it would be desirable for state government funds to be combined with Commonwealth funds and allocated through this mechanism. This body would include Commonwealth and NT Government reps, and where relevant representatives from local government.

The CLC urges extreme caution in relation to the formulation of state-wide bodies. Such bodies, while attractive on paper, are vulnerable to manipulation by government agencies. All too often the indigenous representatives on these kinds of bodies are hand-picked for their politically-palatable views, or completely under-resourced to manage the process. It is not difficult for government representatives to dominate and manipulate these forums, regardless of the mix of numbers. A majority of indigenous representatives will not ensure that the body is ‘indigenous controlled’.

As stated clearly by Aboriginal members of the ATSIC Papunya Regional Council at the conference in Alice Springs, there are great cultural differences between the Top End and Central Australia. This makes the operations of state-wide bodies difficult. Aboriginal people from the CLC region would prefer to work with the Central Australian region.

The CLC submits that the focus needs to be on capacity building and decision-making at a regional level. It may be appropriate for a body to be formed which could coordinate funding requirements for the CLC region, rather than the whole of the NT. Such a body would require:

- a majority of indigenous representatives
- equitable representation from each of the CLC's 9 regions
- the provision of interpreters where required
- access to advice and staff support
- transparency of decision-making processes

Recommendation 5.

That the final report focus on recommendations designed to strengthening regional decision-making capacity and the development of regional governance structures, rather than the creation of state-wide bodies.

- **Regional Structures**

The draft report states

“A feature of many of the approaches outlined in the proceeding sections is the inclusion of indigenous people in both planning and resource allocation decisions at the state level and indigenous control of decisions about service delivered at the local level.” (Chapter 5, para 78)

“If governments and indigenous leaders so desire, regional arrangements could have a place in future arrangements...In some circumstances regional decision-making might even develop as an alternative to State level processes.” (Chapter 5 para 79)

There is strong and growing interest throughout Central Australia for forms of regional governance. The Indigenous Constitutional Convention, held in 1998 at Kalkaringi was attended by over 800 Indigenous people from the CLC region. The Kalkaringi Statement says:

“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.”

“That Aboriginal peoples have the right to determine our own health, housing and other economic and social programs, and to deliver such programs through our own adequately resourced institutions.”

Many communities throughout the CLC region have been considering issues of regional governance. This has, in part, been given some urgency by the plans of the NT Government to reform local government arrangements to amalgamate councils to form ‘shires’. It is interesting to note that central to the NT Government’s mainstreaming policies of 1987, was the development of a NT Government local administrative mechanism in Aboriginal communities - Community Government Councils.

Many communities are worried about the local government reform process, which seeks to radically expand the area of land under the jurisdiction of the *Local Government Act 1978*. Communities are considering other forms of regional governance arrangements that could provide them with control over the issues of importance to their community and families – primarily health, education, housing and policing. Of paramount importance to any regional body is the capacity to control program and service delivery funding.

Some analysis of the Torres Strait Regional Authority, and its capacity to meet the criteria set out in Chapter 5, para 46 would be a useful addition to the report.

The CLC commends the Commission for recognising that

“Indigenous self-management and self-government should be sufficiently flexible to accommodate diversity and allow people to have a real say in how their affairs organised.”
(Chapter 5, para 81)

Recommendation 6.

That the Commission further examine issues of regional governance in the final report. That international case-studies be considered and incorporated into Chapter 5.

References

D.E Smith “Estimating Northern Territory Government program expenditure for Aboriginal people : problems and implications” CAEPR No 30/1992

Crough and Pritchard “Infrastructure provision in Remote Aboriginal Communities in the Northern Territory” CLC, 1990

Indigenous Constitutional Convention, Kalkaringi Statement 1998