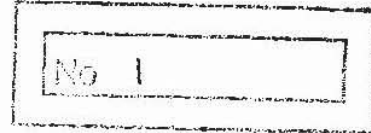


From: Nigel Stobbs [n2.stobbs@qut.edu.au]
Sent: Friday, 10 January 2003 3:31 PM
To: LCARC



Spec 44-1



LARC

ibmission.doc (36 Ki)

Dear Veronica

Please find attached a brief submission in reference to "The Inquiry into Aboriginal and Torres Strait Islander participation in Queensland's democratic process".

The views expressed in the submission in no way represent anyone but myself - and specifically, should not be seen as being representative of, or endorsed by the Queensland University of Technology.

Nigel Stobbs
Barrister at Law

Lecturer
School of Justice Studies
Faculty of Law
Queensland University of Technology
CRICOS No 00213J

Postal Address: GPO Box 2434, Brisbane. QLD. 4001.
Telephone: +61-7-3864 3166
Facsimile: +61-7-3864 3992
e-mail: n2.stobbs@qut.edu.au
Location: Room B309/O, Kelvin Grove Campus, Brisbane. QLD.

Friday, 10 January 2003

The Research Director
Legal, Constitutional and Administrative Review Committee
Parliament House
George Street
Brisbane

Submission relating to the Inquiry into Aboriginal and Torres Strait Islander Peoples' participation in Queensland's democratic process

Theoretical and jurisprudential perspectives

I take issue with the reference to indigenous Australian people in the Issues Paper as a "minority group"¹. In my view this marginalises our indigenous citizens and reflects a colonial and patronising attitude towards issues of sovereignty and self-determination. The issue of participation in a democracy and in government ought to be examined in terms of recognising and empowering a people with a legitimate claim to a significant voice in the how decisions which affect the land from which they have been dispossessed are made – not in the trite context of 'tolerating' or 'pandering' to a political or cultural minority.

The structure and tone of the Issues Paper, while clearly well intentioned, seems to conceive of the potential solutions to the political disempowerment of indigenous Australians as necessarily limited to those on offer from within the theoretical environment of a Western liberal democracy. The solutions and processes mooted seem, fundamentally, to restrict and redefine the cultural uniqueness of indigenous political thought into the very political and social institutions and theories which were responsible for depriving Aboriginal and Torres Strait Islanders of their own society in the first place.

Even a cursory examination of traditional Aboriginal cultural and social systems would reveal that the largely 18th Century liberal values which inform the Westminster system of government are fundamentally alien to indigenous culture. It may well be that a basic reason for the low participation of indigenous people in the "democratic process" is more to do with cultural alienation and a lack of genuine reconciliation than with an absence of token or conciliatory structures or processes designed to improve participation. I urge the Committee to make a genuine and significant effort to understand the political, social and cultural processes which shaped the lives of indigenous Australians for thousands of years before the relatively recent phenomenon of parliamentary democracy – before making suggestions as to how best to further incorporate Aboriginal people and Torres Strait Islander people into the political and legal systems which legitimised their dispossession and disenfranchisement.

It may be that what is needed is not so much greater participation of indigenous Australians in "the" democratic process as a greater participation of the democratic process in the disadvantages faced by these people.

¹ "Some members of the community might consider it unfair to provide opportunities for representatives of Aboriginal and Torres Strait Islander peoples to have direct input into Parliament when other minority groups do not have similar avenues available." (p.15)