



SUBMISSIONS
by

Aboriginal & Torres Strait Islander Legal Service (Qld South) Ltd.
to

The *Hands on Parliament Interim Evaluation* by the
Legal, Constitutional and Administrative Review Committee of the
Legislative Assembly of Queensland of the
IMPLEMENTATION OF RECOMMENDATIONS MADE FOLLOWING A PARLIAMENTARY COMMITTEE
INQUIRY INTO ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE'S PARTICIPATION IN
QUEENSLAND'S DEMOCRATIC PROCESSES

Background of our organisation

As an introduction to these Submissions, we will inform on the background of Aboriginal & Torres Strait Islander Legal Service (Qld South) Ltd ("**ATSILS**") and our capacity to comment on issues concerning the *Hands on Parliament Interim Evaluation* ("**the Interim Evaluation**") by the Legal, Constitutional and Administrative Review Committee ("**the Committee**").

ATSILS provides legal services to Aboriginal and Torres Strait Islanders throughout the area of Queensland that is south of Mackay and across to the state borders of the Northern Territory, South Australia and New South Wales.

The organisation's primary role is to provide criminal, civil and family law representation and advice to Aboriginal and Torres Strait Islander Queenslanders. In addition to providing these services to our clients, the Commonwealth Government has funded ATSILS to be the agency to consider Law and Social Justice Reform for Aboriginal and Torres Strait Islanders. This role is guided by the Royal Commission into Aboriginal Deaths in Custody Recommendations (RCIADIC).

Format of these Submissions

Though we are not using the printed Response Form, in these Submissions we will respond to the 23 Subjects of the Recommendations as nominated in the Response Form. We will also comment on matters that relate to the Committee's task in completing the Interim Evaluation.

Subject: 1. *Formal recognition of Aboriginal and Torres Strait Islanders*

Response: We endorse this change to the Queensland Constitution

Comment: We are of the view that the Preamble to the Constitution should state the fact that Aboriginal people and Torres Strait Islander people are the first inhabitants of the land and sea.

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This declaration:

- 1) will help heal some of the wounds of past injustices done to our people;
- 2) will engender in our people a sense of ownership of Parliament and thereby will empower our people to address legal issues and participate in the legal and Democratic Process;
- 3) inform Queenslanders, the wider Australian population and those of other nations, of the uniqueness of our people; and
- 4) bring pride to all Queenslanders by knowing of our ongoing uniqueness.

Conjunctive with this amendment to the Preamble it will be necessary for there to be a clear definition of who is an Aboriginal person and who is a Torres Strait Islander. We have noted confusion with the use of the term "Indigenous" in that people, who come from other lands or are of different ethnicity, incorrectly assume that term refers to them. Some people indigenous to other countries also incorrectly think that they have the same status as Aboriginal people and Torres Strait Islanders from this land.

For the sake of brevity in these Submissions, we have adopted some acronyms, except for describing our peoples. Some acronyms we believe are offensive. But repeated use of offensive substitutes should not give legitimacy to those terms. We ask that our people be properly described as:

⇒ Aboriginal people and Torres Strait Islanders

The Consultation Paper of the Interim Evaluation ("**the Consultation Paper**") lists reasons (para. 3.6) for not including this statement in the Preamble. These reasons seem to us to be simply generalised impressions about the issues. However, to respond to those 'reasons' in the order they are listed:

- It is often conjecture whether there is or is not sufficient public support for a change. Given that we are at the 40th anniversary of the change to the Australian Constitution which gave equal rights to our people, the public may welcome our further recognition by now changing the Preamble.
- We, like all in the legal industry, deal with matters of legal interpretation on a daily basis. It is not the Herculean task suggested in those reasons.
- Rather than involve excessive use of resources, the change in attitude to the law which we foreshadow in the four numbered points above, will lead to fewer problems and hence less cost, in administration of laws generally.
- The negative view on changing the Preamble distorts potential difficulties of interpretation and tries to anticipate the possibility of political changes (e.g. a republican system) that are not relevant to current circumstances.

Subject: 2. Political Parties

Response: We agree with the Recommendation that Aboriginal people and Torres Strait Islanders participate in the political process and that in practice this requires that our peoples become involved with political parties.

Comment: We are indeed glad to read the responses in the Consultation Paper (para. 3.12) of the main political parties to welcoming our peoples into their organisations. However, there needs to be cultural awareness in recruiting our peoples' participation. This awareness revolves around the following issues:

2.1 Young people, in particular, need to feel confident – empowered – to want to join a party or to consider running for office.

Given the sad history of genocide, dispossession and many other injustices, our people have become culturally conditioned to be subservient to authority figures. The vast majority believe it is beyond their experience that they could become an authority figure. Hence, it is necessary that from primary school times, children are encouraged to rise above this submissive attitude and be confident to aspire to high office. To transcribe an American saying, the young person needs to believe that, with sound effort, it is possible that they too could become (Premier).

2.2 Because of this submissive attitude and also lack of education in the adult population of our people, the political parties need to be proactive in engaging with our people in the political process.

In this regard, parties need to rethink how to engage because pamphlets and stalls at a venue will not usually be the appropriate way to communicate information to our people. It would help if parties were to identify senior people in the various communities and work through them to politicise or conscript to join a party. Often this would mean that the party representative should go to the community rather than hold their face-to-face meeting at the party office.

2.3 In making contact with our peoples it is a given that political parties will look to soliciting votes and identifying key people from our communities to stand for office under their banner. In this regard, we foreshadow the comments that we make under Subject 20, Subject 22 and Subject 23:

- We believe that it is necessary for our people to have a dedicated seat so that there is a permanent voice for our people in Parliament.
- Our view is that the essential criterion for someone's participation in the parliamentary process, from pre-selection to election, is that the candidate is generally acceptable to the electorate.

2.4 We reiterate the comments under Subject 19 (the Committee's agenda) that a system of mentoring would be one way for politicians to engage representatives of our peoples in the political process.

Subject: 3. *Enhanced and inclusive civics education*

Subject: 4. *Testing inclusiveness in civics education*

Response: We see this education as fundamental in the process. We endorse the Consultation Paper statement (para. 3.13; 3.14) on this aspect.

Comment: As noted in that part of the Consultation Paper, civics education and voter education are two key areas and underpinning both of these aspects is a need for cross-cultural awareness. We consider that civics education needs to target three distinct audiences:

- a) There must be an introduction to these matters at primary school level.
- b) The foundation of what is taught in primary must be built upon throughout secondary schooling.
- c) In regard to civics/voter education for the adult population, we reiterate our comments under Subject 2 about the need to make culturally appropriate contact with our communities.

In regard these school levels of education, information on the political processes needs to be embedded in the syllabus and not just at the discretion of the teacher or principal. It should be compulsory for this information to be a stand-alone topic and students encouraged by 'hand-on' visits to civic institutions.

Repeating our comments in Subject 2 on the need for our people to have a sense of empowerment, we commend the initiatives of *Embedding Aboriginal and Torres Strait Islander Perspectives across the Curriculum – School Guidelines* and the *Perspectives within the key Learning Areas* and the *National Statements of Learning* (Consultation Paper pages 12 & 13). These initiatives will inform all Queenslanders on the culture and history of our people. In turn that information will develop understanding and tolerance of different perspectives and underpin the hopes of the Committee in making its recommendations.

Subject: 5. *Parliamentary Education Services*

Subject: 7. *Australian Electoral Commission voter education activities*

Subject: 8. *Electoral Commission Queensland voter education activities*

Response: We endorse education being provided by the Parliamentary Education Services ("PEA") and the Australian Electoral Commission ("AEC") and the Electoral Commission Queensland ("ECQ"). We ask that these bodies coordinate their efforts to provide this education.

Comment: Following on the comments we make on Subject 3, we see education of the adult population on the political processes as vital. The 'hands on' activities for students, which the Consultation Paper (para 3.17; 3.18) notes that the PEA already gives, should continue. However, while we realise that the process of selecting suitable students from remote areas to travel to Brisbane is more costly than for other students, we ask that the remote area students not be disadvantaged on the basis of cost of their participation.

In regard to this comment, the Consultation Paper (para. 3.28 – page 27) acknowledges the efforts by the Murri media, to inform people in remote areas. But these efforts are hampered by the distances between communities when information is best conveyed by face-to-face contact. It would be rare indeed for a remote community to have access to the internet for information. A "democracy bus" for rural, regional and remote areas (Consultation Paper para. 3.18, page 17) has been put forward as an effective means to address this difficulty. As it would be a costly exercise to outfit such a vehicle and staff it, this might well be an initiative to exemplify cross-departmental cooperation. The 'bus', for example, could also combine with health educators to provide education on healthy-lifestyle choices. This would then be cost-effective across a range of government organisations.

In regard to the AEC education program, it should be an ongoing process and not one that appears only when an election is imminent. In this regard we commend to the Committee the work done by field officers as noted in the Consultation Paper (para. 3.22). As we understand, the work of the Remote Area Information Program aimed to engage our communities in education on the electoral process and in a culturally appropriate way. We note that the ATSIEIS project stopped due to lack of funding, however the Consultant Paper (page 21) did not suggest this was because of lack of community participation.

The Consultation Paper (para. 3.24) notes the efforts of ECQ in regard to election and enrolment education and we commend those efforts. In regard to voter education, we refer to our comments under Subjects 2 and 3. In regard to voting or enrolling many of our people as potential voters, our impression is that there are several impediments to their doing this, such as:

- Their lack of education on elections;
- Their feeling of disempowerment and lack of 'ownership' of process;
- Lack of news information on any current election due to their isolation;
- Real difficulty in their travelling from remote area to vote, coupled with their ignorance of postal vote system; and
- Their not having a birth certificate and inability to prove eligibility to vote.

While we have addressed most of these issues earlier in these Submissions, the issue of birth certificates needs special comment, as many of our people do not have birth certificates and cannot readily obtain certificates.

Our people have found that there are real legal and administrative difficulties in obtaining a certificate. The difficulties revolve around the fact that many were not born in a hospital or that there was not at their birth, any person who complied with the legal requirements of registration. Over time it is most difficult to satisfy the legislation's requirements prerequisite to the issue of a certificate.

We are aware of the concerns of the Registrar of Births, Deaths and Marriages and that for citizenship there is a need for good evidence of parentage before a birth certificate can be issued. We do commend the Committee to liaise with their parliamentary colleagues to see if changes to the legislation can be introduced to facilitate the issue of the birth certificates for our people in these situations. We are concerned that there are not inefficiencies or duplication when the PEA, the AEC or the ECQ deliver this education. We suggest that they coordinate their respective efforts. An appropriate demarcation might be that the PEA primarily addresses education of young people who are in the school system and AEC and ECQ primarily look to education in the wider population.

Subject: 6. *Youth participation in local government processes*

Subject: 11 *Enhancing local government participation*

Subject: 12 *Evaluation of participation in local government*

Response: We endorse the initiatives, as noted in the Consultation Paper under these subject headings, of a 'hands on' involvement of youth in the political process and of engaging our adults to participate in local government.

Comment: A truism, which has special application in regard to our people, is that *one learns by doing*. We have commented under Subjects 3 and 5 on the value of this involvement in regard to young people and consider that their education in this regard is best addressed in the period they are at school. In regard to our adult population, the comments we make under Subjects 2 and 3 are also relevant to Subject 11.

Subject: 9. *Employment and training in democratic institutions an processes*

Subject: 10. *Leadership training*

Response: We endorse the comments in the Consultation Paper (para. 3.26)

Comment: We reiterate the comments that we make under Subject 5 that while selecting suitable students from remote areas is more costly than selecting students from main centres, we ask that the remote area students not be disadvantaged on the basis of cost of their participation.

The selection of youth for Leadership Training is done primarily from the ranks of secondary school attendees. The fact is that the number of our youth, who are in secondary school and achieving in their studies, is relatively small. It follows from this fact that the pool of youth, who might be eligible for selection in Leadership Training, is small. Statistics indicate that, up to the grade 3 level, our youngsters are level-pegged in their studies with other Australian children.

The causes for our children to thereafter fall out of school and miss out on other advantages often relate to their family being dysfunctional, their having inadequate housing, being sickly and basic malnutrition. In making these observations we realise that this issue may be beyond the scope of the Committee. However, as the issue is fundamental to many government departments, particularly Education, Health, Housing, Training & Employment, it may be that the Committee can inform on ways to facilitate cross-government focus on this issue.

Subject: 13. *The role of ATSIC and efficient service delivery*

Response: We see Education Queensland and the three bodies noted under Subjects 5, 7 and 8 as the best choices for effective service delivery of the civics and voter education programs, and Education Queensland in particular for the cultural history and appreciation programs. ATSIC no longer exists to facilitate the communication processes throughout our communities.

Comment: We refer to our comments under Subjects 2, 3, 4, 5, 6 and 7.

Subject: 15. *The role of community leaders*

Response: We are concerned that in selecting community leaders that they are identified as people of integrity and who will properly represent the current and long-term interests of their people. In this respect, this requirement is similar to that for any other leader, but with the qualification that cultural systems of governance need to be also considered.

Comment: The Consultation Paper (para. 3.16) draws attention to the need for knowledge and understanding of "Indigenous systems of governance". The Paper does not go on to describe those systems or the ways that leaders are selected from within a community. The Committee might address this oversight when it completes its evaluation. While there are variations between communities, there are some valid generalisations on the mechanisms for selecting leaders. In identifying people as suitable for pre-selection as candidates, we commend political parties be mindful of the "Indigenous systems of governance" and the nominee's integrity as well as their "vote-attractiveness".

Subject: 16. *Government's appreciation of cultural differences*

Response: The Committee is to be commended for seeking the views of our people and its members informing themselves of aspects of our people's culture. But we surmise that there are many politicians and Parliamentary staff who would benefit from information on culture and history of our people.

Comment: The Supreme Court *Equal Treatment Bench Book* has been published (in electronic format) by the Supreme Court of Queensland. It gives a concise overview of several cultural aspects and is helpful as an introduction to such matters. We recommend to the Committee that a cultural awareness program be part of the induction of both newly recruited and established staff and of members, with a reference to the *Bench Book* included in the protocol manual.

Subject: 18. *The Committee's area of responsibility*

Subject: 19. *The Committee's agenda*

Response: We commend the Committee on its work.

Comment: Under Subject 2, we suggested that the various political parties could materially assist in the process of recruiting Aboriginal people and Torres Strait Islanders as members by introducing a mentoring system. In effect, a member would have assigned "an Indigenous" protocol officer/liaison officer (the title is not so important) albeit on a nominal salary or a part-time basis. The 'mentor-pupil' relationship would be a conduit for 2-way communication and it would give insight to the "pupil" of the workings of the political process. The Committee could suggest that each party appoint a significant number of their sitting members to be 'mentors' and have such officers on the party team.

Subject: 14. *Indigenous Community Cabinets*

Subject: 20. *Aboriginal and/or Torres Strait Islander Assembly*

Subject: 21. *Greater autonomy in the Torres Strait*

Subject: 22. *Dedicated seats*

Response: Our people should have a dedicated seat in Parliament.

Comment: We are of the view that there is a need for there to be a permanent voice for our people in Parliament. While we are confident that selection for and then election to a dedicated seat, would be in accordance with "Indigenous systems of governance", we are also of the view that the essential criterion for someone's participation in the parliamentary process, from pre-selection to election, is that the candidate is generally acceptable to the electorate.

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Subject: 17. *Fundamental legislative principles*

Subject: 23. *Queensland's electoral system*

Response: With Subject 17 we endorse the proposal in the Consultation Paper (para. 3.36) that regard to the customs of our various peoples be given when formulating legislation. In regard to Subject 23, we encourage the Committee to consider how those of our people who live in a sparsely populated area might be fairly represented in Parliament.

Comment: In sparsely populated but large geographic areas of the State and where the population in that area is mainly Aboriginal people or Torres Strait Islanders, there is a need for care to be taken in defining the electorate. In particular, despite the sparseness of a population, the individual character of the people in that region should be recognised so that their votes have meaning. We are concerned that the votes of those people not be swamped and that they are fairly proportionally represented in the electoral system rather than be included with another more populous and different community.

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1 June 2007