



## INTRODUCING INDIGENOUS AUSTRALIA



There are two distinct groups of Indigenous peoples of Australia – Aboriginal peoples and Torres Strait Islanders – ethnically and culturally distinct and with different histories.

No one knows how many Aboriginal people lived in Australia before colonisation. It is believed that the Indigenous population could have been from 750,000 to 1 million people. Aboriginal Australia was not one country, but up to 300 Aboriginal nation-states, speaking about 250 languages and many more dialects.

With the arrival of the First Fleet in January 1788, Britain took formal possession of Australia. The basis in (European) international law for the progressive take-over of the continent was the doctrine of 'terra nullius' – land belonging to no-one. This meant that Aboriginal lands were Crown lands in the eyes of the (British) law.

This idea that Australia belonged to no-one was not because the British did not see Aboriginal people living here, but because Aboriginal peoples did not seem to cultivate land or build permanent dwellings as Europeans did. Terra nullius meant that the land had no sovereign owner, and it was on this basis that Britain took possession of Australia without a treaty. It is also the basis for the still prevailing belief that colonisation was peaceful 'settlement'.

In fact, Australia was inhabited by sovereign peoples for whom the land had great cultural, spiritual and economic significance. The settlement of the British was not peaceful, and is increasingly accepted as being a countrywide invasion. As the colonies spread across the continent, traditional lands were taken over and Aboriginal peoples became trespassers on their own lands. All over Australia there was Aboriginal resistance, but this was written out of history. Until recently most Australians knew nothing about it.

The century following colonisation was marked by massacre, displacement and disease. In Sydney, more than half of the Aboriginal population died of smallpox in the first two years of the colony. Aboriginal people had no immunity to European diseases and even the common cold could be fatal.

The Torres Strait was annexed by Queensland in 1879. Torres Strait Islanders were not dispersed from their homelands like Aboriginal people, but were effectively denied full citizenship rights until 1967.

When the colonies federated as the Commonwealth of Australia in 1901, Aboriginal people were written out of the constitution – they were not to be counted in the census

and the Commonwealth Parliament did not have power to make laws for them. Aboriginal people were excluded from the vote, public service, the Armed Forces and pensions. The White Australia Policy defined Australia as White. This policy was not abolished until 1972.

### INDIGENOUS PEOPLE TODAY

The most recent Census data available (2001)<sup>1</sup> indicates there were 410,000 Aboriginal and Torres Strait Islander people living in Australia. This population is growing rapidly with a birth rate double that of other Australians. Indigenous people currently represent about 2 per cent of the total Australian population. According to the Australian Bureau of Statistics:

- The Indigenous population is projected to rise to 470,000 by 2006.
- The growth rate of the Indigenous population is 2.3 per cent, nearly double that of the total Australian population growth rate of 1.2 per cent.
- The Indigenous population is young. The median age of the Indigenous population is 20 years, compared to 34 years for the total Australian population.

These factors will result in an increased Indigenous influence. It also has enormous implications for the delivery of services by all levels of government, in health, education, housing, and employment – all the services that citizens expect governments to provide. With a higher birth rate there will be more pressure to provide these services, especially in remote areas where a higher proportion of Indigenous people live.

### WHERE DO INDIGENOUS PEOPLE LIVE?

Over half of all Indigenous people live in New South Wales and Queensland. NSW has the highest number. Many people think most Indigenous people live in northern or central Australia, because in those areas Indigenous people represent a higher proportion of the local population. For example, in the Northern Territory, about one in every four people is Indigenous but in NSW, only one in every 50 people is Indigenous.

Indigenous people are more likely than non-Indigenous people to live in rural or remote areas. According to the last Census, the geographic distribution of the Aboriginal and Torres Strait Islander population is as follows:

- 30% of the Indigenous population live in cities (greater than 100,000 people).

- 42% live in towns and other urban areas (1000 to 99,000 people).
- 27% live in rural and remote areas (less than 999 people).<sup>ii</sup>

Ninety per cent of the Indigenous population live in areas covering 25% of the continent. This contrasts with the general Australian population. Ninety per cent of Indigenous people live in the most densely populated 2.6% of the continent, mostly along the south east coast.

## SOCIOECONOMIC STATUS

Aboriginal and Torres Strait Islander people are the most disadvantaged of any group in Australia. On all the major indicators, such as health, housing, education, employment and contact with the justice system, Indigenous people are significantly worse off than other Australians.

The reasons for this disadvantage stem from the nature of colonisation and successive government policies. Of particular consequence has been the loss of land – the economic, spiritual and cultural basis of Indigenous society. Most Aboriginal people were moved onto reserves and missions, with every aspect of their lives regulated by government until the 1970s. Most Aboriginal people became dependent on, but not participant in, the dominant economy.

### Socioeconomic Indicators:<sup>iii</sup>

- The life expectancy of Indigenous people is nearly 20 years below that of the total Australian population.
- Indigenous adults are less likely than non-Indigenous adults to have a post-school educational qualification (11% versus 31%)
- The median weekly income for Indigenous people is \$189 for males and \$190 for females. This compares to \$415 for non-Indigenous males and \$224 for non-Indigenous females.
- The unemployment rate for Indigenous people is around 40% nationally, but in some areas it is as high as 100%. This compares to an unemployment rate of 8% for the rest of Australia.
- Approximately one quarter of all Indigenous employment is 'work-for-the-dole', under the Community Development Employment Projects (CDEP) scheme, administered by ATSIIC, which is often the only source of employment in a community.
- At the 2001 census, 22% of all households living in improvised dwellings in Australia were Indigenous households.

- In 2001, almost 2% of Indigenous people in Australia lived in dwellings with 10 or more residents – more than 50 times greater than the proportion of other Australians living in such conditions.
- Indigenous people are much less likely than other Australians to own their home. Only 32% of Indigenous households live in homes that are owned or being purchased by their occupants, compared with 71% of other Australian households.
- Indigenous people are more likely than non-Indigenous people to be victims of violence and to suffer intentional injuries (those inflicted on purpose by another person) resulting in hospitalisation.

## TOWARDS THE FUTURE

In spite of the serious disadvantage faced by Indigenous peoples and communities, there have been significant steps towards gaining recognition and addressing past wrongs.

In 1967, 91% of the Australian population voted YES in a Referendum which altered the Australian Constitution to allow Indigenous people to be counted in the national Census and gave the Commonwealth Government power to make laws on their behalf.

In 1992, the High Court of Australia recognised for the first time that Australia was not 'terra nullius' at the time of European colonisation<sup>iv</sup>. This decision, known as *Mabo*, recognised that Indigenous people had continuing rights and interests in their land and waters in accordance with their traditional law and custom.

Two landmark investigations, the Royal Commission into Aboriginal Deaths in Custody and the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, have been important in understanding the ways that past government practice continues to impact on Aboriginal communities.

A formal process of Reconciliation between Indigenous and non-Indigenous Australians took place between 1991 and 2000. In 1998, well over a million Australians signed 'Sorry Books', a way of apologising on an individual and community level for the hurt and damage caused by government practices.

In May 2000, more than 300,000 people walked across the Sydney Harbour Bridge in the People's Walk for Reconciliation, demonstrating their support for this process.

The 2000 Sydney Olympics honoured and celebrated Australian Indigenous culture in front of a world wide audience.

i Australian Bureau of Statistics, 2001 Census

ii Australian Bureau of Statistics, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples* (Cat No. 4704.0) 1999

iii Australian Bureau of Statistics, 2001 Census

iv *Mabo and Others v. the State of Queensland (No.2) (1992) 175 CLR.F.C.92/014*



## AN OVERVIEW OF HISTORY



### The Dreaming

The Dreaming is the dimension of sacred, eternal time when Ancestral Spirits came up out of the earth and down from the sky to shape the land, rocks, rivers, mountains, forests and deserts. Spirit Ancestors created all the people, animals and plants that were to live in the country and laid down the laws, customs and codes of conduct their lives were to follow – that is, the Law.

Aboriginal Australia is not one country, but up to 300 Aboriginal nation-states, speaking about 250 languages and many more dialects.

### 1770

Captain Cook claims to take possession of the whole east coast of Australia by raising the British flag at Possession Island off the northern tip of the Cape York Peninsula – claims the land as ‘terra nullius’.

### 1788

Arrival of the First Fleet and the beginning of British invasion. Aboriginal population estimated at between 750 000 to 1 million.

### 1789

Smallpox epidemic wipes out at least half of Sydney Aboriginal people. Aboriginal people have no resistance to European diseases and even the common cold proves to be fatal.

### 1790

Resistance begins, first by Pemulwuy (from 1790 to 1802), then in Hawkesbury River area. Martial law is declared time and again, but on occasion settlers are told to protect their property. Official records speak of a ‘campaign of terror’ to crush resistance.

### 1804

One year after the British flag is raised in Tasmania, settlers are authorised to shoot unarmed Aboriginal people. Beginning of the Black War.

### 1837

In London, a Parliamentary Select Committee affirms the ‘plain and sacred right’ of Indigenous peoples to land.

### 1838

Myall Creek massacre – 28 Aboriginal old men, women and children are

butchered. Eleven stockmen are brought to trial; initially acquitted, then seven are retried and hanged for murder. There is a cry of outrage from the colonial press and sections of the public who cannot understand why anyone should hang for murdering Aboriginal people.

### 1868

The first overseas cricket tour leaves Australia for England; the team is all Aboriginal.

### 1879

Torres Strait Islands are annexed by Queensland.

### 1883

NSW Aborigines Protection Board (APB) takes over reserves for Aboriginal people and sets up reserve schools – usually taught by untrained managers’ wives with an inferior curriculum.

### 1901

Commonwealth of Australia formed. Aboriginal people are excluded from the census and the lawmaking powers of the Commonwealth Parliament.

White Australia Policy bars ‘coloured’ immigrants and denies Aboriginal existence. Aboriginal people are excluded from the vote, pensions, employment in post offices, enlistment in Armed Forces, maternity allowance.

### 1909

*Aborigines Protection Act 1909* (NSW), gives APB the power to remove Aboriginal children from their families.

### 1937

First Native Welfare Conference – policy of Assimilation is adopted to make Aboriginal people the same as White Australians.

### 1938

Day of Mourning held by the Australian Aborigines League (est. 1932) and Aborigines Progressive Association (1937). It is the first major protest by Aboriginal people. The manifesto ‘Aborigines Claim Citizen Rights’ and Abo Call newspaper are published.

### 1940

The Aborigines Protection Board is abolished, replaced by the Aborigines Welfare Board.

### 1949

*Australian Citizenship Act 1949* (Cth), gives Aboriginal people the vote in Commonwealth elections if they are enrolled for State elections or have served in the Armed Forces.

### 1953

Atomic tests, codenamed Operation Totem, are conducted at Emu, South Australia. A black cloud passes leaving many Aboriginal people suffering radiation sickness.

### 1956

Operation Buffalo, another atomic blast at Maralinga, South Australia.

### 1957

Operation Antler: atomic testing yet again at Maralinga, South Australia. The presence of Aboriginal people on the nuclear test site is documented.

### 1958

Federal Council for the Advancement of Aborigines – later changed to Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI) – begins ten year campaign by both black and white people to end discrimination in the constitution

### 1962

All Aboriginal people are given the vote in Commonwealth elections.

### 1965

Freedom Rides – Sydney University students’ bus tour of NSW country towns to expose living conditions and discrimination against Aboriginal people. Assimilation policy is changed to that of Integration – Aboriginal people entering Australian society on their own terms and preserving as much of their culture as they choose.

### 1966

Arbitration Commission rules equal pay for Aboriginal workers in the pastoral industry but defers it for three years. Gurindji workers walk off Wave Hill cattle station, then claim their Dreaming Place, Wattie Creek.

### 1967

91% of Australian voters vote YES in a Referendum to count Aboriginal people in the census and give the Commonwealth the power to make laws for Aboriginal people.

1969

NSW Aborigines Welfare Board abolished; Aborigines Advisory Council set up.

1970-71

Aboriginal Legal Service and Medical Service set up in Redfern, followed by Aboriginal pre-school, Black Theatre and the Aboriginal Housing Company.

1972

Aboriginal Tent Embassy set up outside Parliament House Canberra – adopts Aboriginal flag.

Whitlam Labor Government is elected – abolishes White Australia Policy, sets up Department of Aboriginal Affairs; new Aboriginal policy of self determination.

1975

Prime Minister Gough Whitlam hands back title to Gurindji people.

Racial Discrimination Act 1975 (Cth) is passed in the Commonwealth Parliament.

1976

Aboriginal Land Rights Act 1976 (NT) is passed by the Fraser government.

1980

Link-Up NSW established to re-unite families of the Stolen Generations. NSW Parliament Select Committee inquiry into land rights for Aboriginal people.

1983

*Aboriginal Land Rights Act 1983* (NSW) recognises dispossession and dislocation of NSW Aboriginal people, sets up local-regional-State land council network with 15-year land tax funding (to 1998) as compensation and to establish an economic base.

1987

Prime Minister Bob Hawke sets up a Royal Commission into Aboriginal Deaths in Custody in response to the high rate of Aboriginal incarceration and death in prisons and police lockups.

1988

Bicentennial celebrations and protest; tens of thousands of people march through the streets on Australia Day. These signal a massive increase in awareness of Aboriginal history and issues.

1989

Aboriginal and Torres Strait Islander Commission (ATSIC) is established.

1991

The Royal Commission into Aboriginal Deaths in Custody presents its Report and Recommendations to the Commonwealth Government. It is the most comprehensive investigation of Aboriginal experience in Australia ever. It makes 339 recommendations to change Australian systems at every point of contact with Aboriginal people. The final recommendation is that a formal process of reconciliation between Indigenous and other Australians be instituted. Council for Aboriginal Reconciliation (CAR) established by Act of Parliament.

1992

The High Court of Australia rules in the *Mabo* case that native title exists over particular kinds of land – unalienated Crown land, national parks and reserves – and that Australia was never 'terra nullius'.

1993

Native Title Act 1993 (Cth) is passed in the Commonwealth Parliament. It sets up the National Native Title Tribunal to determine native title rights.

1995

The Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families is announced.

1996

Election of Howard Coalition Government in Canberra – seen as opposed to Aboriginal rights.

The Wik<sup>1</sup> case – High Court rules that native title and pastoral leases can co-exist, but that in all cases of conflict of rights the rights of the lessee will prevail.

Pauline Hanson and One Nation Party campaign against Aboriginal 'special treatment'. Commonwealth Parliament statement of commitment to Reconciliation.

1997

The *Bringing them home* report on the Stolen Generations is released. Australian Reconciliation Convention is held in Melbourne.

1998

*Native Title Amendment Act 1998* (Cth) is introduced based on the Coalition Government's ten point plan. Widely seen as reducing Indigenous native title rights.

First national Sorry Day – over 1 million signatures are collected in thousands of Sorry Books.

2000

May 27-28 Corroboree 2000 handover of *Document for Reconciliation* at Sydney Opera House; over 300,000 people join People's Walk for Reconciliation across Sydney Harbour Bridge.

Sydney 2000 Olympics. The Sydney 2000 Olympics showcased Indigenous culture to the world. The opening and closing ceremonies celebrated Indigenous cultural identity and history and provided some deft political comment on contemporary Indigenous issues.

Indigenous athlete, Cathy Freeman, lit the Olympic torch and won the gold medal in the women's 400m.

**Centenary of Federation 2001**

Indigenous people and cultural events featured heavily in the Centenary of Federation program. The Yeperenye Festival outside Alice Springs was the largest corroboree ever staged in this country – over 25 000 people and 40 Indigenous nations. The program celebrated the first Aboriginal federation of over 1000 generations.

**Treaty: Lets Get It Right 2001**

ATSIC announced a national consultation on what should be in a treaty with an Aboriginal plebiscite to be held in 18 months.

**December 2002**

The Commonwealth Government released its response to *Reconciliation: Australia's Challenge*, the CAR's final report. The Government did not commit to action on any of the recommendations of the report, except to indicate that if there was sufficient public support a referendum on deleting section 25 of the Constitution would be held. The response reiterated the Government's commitment to 'practical reconciliation'.

**January 2003**

The NSW Government provided its response to the CAR final report to the NSW Reconciliation Council. To date only the Commonwealth and NSW Governments have formally responded.

<sup>i</sup> *The Wik Peoples v The State of Queensland & Ors, Matter No B8 of 1996*



## HEALTH



Aboriginal people have the poorest health of all Australians. They are far more likely to suffer chronic disease and disability, and be admitted to hospital. They have a life expectancy 20 to 25 years less than the rest of the population.<sup>i</sup>

The differences between the health of Indigenous and non-Indigenous people can be attributed to the health risks to which Indigenous people are more likely to be exposed, such as poverty and poor living conditions, poor nutrition, smoking and exposure to violence.

Poverty, racism and the history of taking children from families also place Indigenous people at risk of impaired mental and emotional wellbeing.

The health disadvantage of Indigenous Australians begins early and continues throughout their life. One of the starkest indicators of the health of Aboriginal people today are the high number of young deaths.

- 45 % of deaths of Indigenous males and 34% of Indigenous females die before the age of 45 years. The corresponding proportion for non-Indigenous males and females was 10% and 6% respectively.<sup>ii</sup>
- 27 % of Indigenous people live to the age of 65, compared to 79 % of non-Indigenous people<sup>iii</sup>
- Based on 1998/99 data Indigenous people nationally were about twice as likely to be hospitalised as people in the general community.<sup>iv</sup>
- The main causes of death among Indigenous people are circulatory disease, injury, respiratory disease, cancer and diabetes.<sup>v</sup>

### Comparative health status of the Aboriginal and general population in NSW <sup>vi</sup>

INDICATOR	ABORIGINAL	GENERAL
Stillbirths per 1,000 births	14.7	7.5
Neonatal deaths per 1000 births	9.0	5.1
Perinatal deaths per 1000 births	23.5	12.5
Full term babies born with low birth weight (i.e. <2500 grams)	4.4%	2.1%
Babies born prematurely – under 37 weeks gestation	10.1%	7.0%
Babies admitted to a Special Care Nursery or Neonatal Intensive Care Unit	22.2%	18.5%

INDICATOR	ABORIGINAL	GENERAL
<b>Life expectancy at birth</b>		
Males	54 years	73 years
Females	65 years	79 years
<b>Asthma – all ages</b>		
Males	15%	8%
Females	16%	7%
<b>Asthma – people less than 15yrs old</b>		
Males	17%	13%
Females	15%	10%
<b>Diabetes – people over 35 years</b>		
Males	11%	2%
Females	11%	2%
<b>Kidney disease – people over 35 years</b>		
Males	7%	1%
Females	7%	2%
<b>Ear and hearing problems – 15 years &amp; under</b>		
Males	11%	2%
Females	11%	3%

### HEALTH SERVICES

It is estimated that about 2.2% of total health expenditure in Australia in 1995-96 was spent on health services to Indigenous people. The estimated expenditure per person was \$2,320 for Indigenous people and \$2,163 for non-Indigenous people.<sup>vii</sup>

Particularly in rural and remote areas, Indigenous people face a number of potential barriers to accessing health services, such as:

- distance and lack of availability of transport
- lack of access to GPs and pharmaceuticals
- lack of culturally appropriate health services
- non-proficiency in English
- lack of involvement of Indigenous people in the delivery of health services
- lack of private health insurance cover
- economic disadvantage

The former Commonwealth Health Minister, Dr Michael Wooldridge, has noted on ABC Radio that ‘a good number of Aboriginal communities...have no access to health services whatsoever. The largest of these communities is a thousand people’.<sup>viii</sup>

Ensuring access to appropriate services is crucial to improving the health status of Indigenous people. Of equal importance is the involvement of Aboriginal and Torres Strait Islander peoples in the planning and delivery of their health services.

Aboriginal Medical Services are community-run organisations that provide primary health care and some health education services to Aboriginal communities. However, there are only 125 Aboriginal health services across the country. They cannot operate in every community and not all Aboriginal people have access to them.

### INDIGENOUS PEOPLE AND ALCOHOL

Contrary to popular stereotypes, on a per capita basis, more Indigenous people do not drink alcohol as compared to non-Indigenous people.<sup>x</sup> 32% of Indigenous people do not drink alcohol compared to 16% of non-Indigenous people.<sup>x</sup> However, Indigenous people are more likely to consume alcohol at more dangerous levels and are consequently more likely to be admitted to hospital.

Due to the socioeconomic circumstances of the majority of Indigenous people, the lack of adequate community facilities means that alcohol consumption takes place in very public places such as parks, streets and public utilities. This means Aboriginal people feel, and often are, targeted by bans on drinking in public places.

- i Public Health Division, *The Health of the People of New South Wales – Report of the Chief Health Officer*. NSW Health Department, Sydney, 2000. Available at: [http://www.health.nsw.gov.au/public-health/chorep/atssi\\_sum.htm](http://www.health.nsw.gov.au/public-health/chorep/atssi_sum.htm)
- ii Australian Bureau of Statistics, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples 2001*
- iii *ibid*
- iv *ibid*
- v Australian Bureau of Statistics, *Occasional Paper: Mortality of Aboriginal and Torres Strait Islander Australians* (Cat. No. 3315.0) 2000. Available at [www.abs.gov.au](http://www.abs.gov.au)
- vi Council on the Cost of Government, *NSW Government Programs for Aboriginal People 1998*
- vii Australian Bureau of Statistics, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples* (Cat No. 4704.0) 1999
- viii quote taken from Aboriginal and Torres Strait Islander Commission publication *As A Matter of Fact 1998*
- ix Office of the Commonwealth Minister for Aboriginal and Torres Strait Islander Affairs, *Rebutting the Myths*, revised 1997
- x Australian Bureau of Statistics, 2001 Census

### For more information contact

NSW Health:

(61 2) 9391 9000

Aboriginal Health and Medical Research Council:

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Office of Aboriginal and Torres Strait Islander Health,

Commonwealth Department of Health & Aged Care:

(61 2) 6289 1555



## LAW AND JUSTICE



Indigenous people are massively over-represented in the criminal justice system. Nationally, Indigenous adults are in prison at 14 times the rate of non-Indigenous people.<sup>i</sup> Young Indigenous people are particularly affected. For juveniles (aged 10 – 17) in NSW, the incarceration rate is 21 times that of non-Indigenous young people. This jumps to 48 times the non-Indigenous rate in Western Australia.<sup>ii</sup>

- While Indigenous people represent only 2% of the total Australian population, over 14% of Australia's prison population are Aboriginal and Torres Strait Islander.<sup>iii</sup>
- In the Northern Territory, 72.8% of the prison population is Indigenous.<sup>iv</sup>

There are many causes of this over-representation. Understanding the history of colonial practices is essential to understanding the high levels of Indigenous imprisonment.

For example, the *National Aboriginal and Torres Strait Islander Survey* (1994) found that 21.8% of those taken away from their natural family as a child reported having been arrested at least once during the last five years, compared to 10.6% of those not taken away as a child.<sup>v</sup>

Other factors include:

- racist, violent and inappropriate police behaviour;
- the criminalisation of public order offences such as swearing (current research into charges for offensive language and behaviour show that Aboriginal people are charged at a rate 15 times greater than the rest of the community for these offences);<sup>vi</sup>
- socio-economic factors, such as poverty and high unemployment, particularly for youth and in rural and remote areas;
- a focus on 'law and order' rather than the more modern approach of community policing.

A 1996 study of Indigenous incarceration levels noted: 'It has been widely recognised that the high criminalisation and incarceration rates of Indigenous young people is a disastrous time bomb which will seriously affect the life chances of another generation of Aboriginal and Torres Strait Islander people'.<sup>vii</sup>

### ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY

The Royal Commission into Aboriginal Deaths in Custody was announced in 1987, following a spate of Aboriginal deaths in prison and police custody. It began its hearings in 1988, the Bicentennial year of European 'settlement' in this country and tabled its final National Report in 1991. The Royal Commission examined the deaths of 99 individuals who died in custody between 1 January 1980 and 31 May 1989. It began by addressing in depth issues around causes of death, culpability of custodians and their employers, and prevention of future deaths.

The scope of the Royal Commission was expanded to look into what it called the 'underlying issues': the social, cultural, and legal factors which, in the view of the Commissioners, had some bearing on the deaths – why there were so many Indigenous people in custody, and why they were treated as they were, both in custody and in society.

The Royal Commission found that Aboriginal people in custody do not die at a greater rate than non-Aboriginal people in custody.

However, what is overwhelmingly different is the higher rate at which Aboriginal people are taken into custody, compared with the rate of the general community. The 99 who died in custody illustrate the over-representation and, in a sense, are the victims of it.

The conclusions are clear. While Aboriginal people die in custody at a rate relative to their proportion of the whole population, they are massively over-represented as a proportion those incarcerated. Too many Aboriginal people are in custody too often.

The Royal Commission made 339 recommendations. These are concerned primarily with minimising the number of Aboriginal people in custody; in prisons, in police lock-ups, and in juvenile detention centres. They include such key recommendations as police arresting people only when no other way exists for dealing with a problem (Recommendation 87), and State and Territory Governments legislating 'to enforce the principle that imprisonment should be utilised only as a sanction of last resort' (Recommendation 92).<sup>viii</sup>

Other recommendations were to address the underlying issues – to change systems at every point of contact with Aboriginal people and to change Australian systems in general. These included *Educating for the Future*, to change education and training, improving health, co-ordinating funding programs and facilitating self-determination by

Aboriginal people at the local level. Recommendation 339 was for a formal process of Reconciliation between Aboriginal people and the wider community, leading to the establishment of the Council for Aboriginal Reconciliation.

Since the Royal Commission, levels of Aboriginal over-representation have increased in prisons and have remained roughly constant in police custody. Australian and international commentators have pointed to this as a national disgrace, effectively a continuation of earlier policies which have been characterised as cultural genocide.<sup>ix</sup>

### MANDATORY SENTENCING<sup>x</sup>

Mandatory sentencing is where the government legislates for the exact penalty for a particular category of criminal offence, rather than legislating for a range of penalties, allowing judges and magistrates to interpret the sentence according to the circumstances of the offence and the offender. Mandatory sentencing removes a judge's discretion in imposing a sentence.

Western Australia and the Northern Territory have both had the most comprehensive mandatory sentencing laws. After the suicide in detention of a Northern Territory Aboriginal youth sentenced under mandatory sentencing laws for stealing property worth less than \$50.00 there was national and international pressure for the mandatory sentencing laws to be abolished. At the time, both the Northern Territory and the Western Australian Governments resisted any changes to their legislation.

In 2001 a new Labor Government was elected in the Northern Territory and the mandatory sentencing regime ended.

In Western Australia, mandatory sentencing remains for offenders who are convicted of any third property crime. The mandatory sentencing laws affect Aboriginal people disproportionately as the law applies to offences that are most likely to be committed by the most alienated and disadvantaged people in society.

### CIRCLE SENTENCING

NSW is currently conducting a two year trial of circle sentencing for Aboriginal offenders. It is based on the Canadian model that has been operating for 10 years. The NSW model involves offenders applying to a court to have their matter dealt with by circle sentencing after pleading guilty or being found guilty by the court. If their application is successful, the sentencing court will then be convened in a community setting where Aboriginal community members and the Magistrate sit in a circle to discuss the offence and the offender. The circle will also talk about the background and effects of the offence and will endeavour to develop a sentence that is best for that offender.

The trial currently operates in four NSW communities.

- i Australian Bureau of Statistics: *The Health and Welfare of Australian Aboriginal and Torres Strait Islander Peoples* (Cat 47040) 1999
- ii McDonald and Walker, *The Over Representation of Indigenous People in Custody in Australia*, Australian Institute of Criminology 1995
- iii *ibid*
- iv Aboriginal and Torres Strait Islander Commission website [www.atsic.gov.au](http://www.atsic.gov.au)
- v Cunneen and McDonald, *Keeping Aboriginal and Torres Strait Islander People Out of Custody*, ATSIIC 1997
- vi Aboriginal Justice Advisory Council, *RCIADIC - Review of NSW Government Implementation of Recommendations* 2000
- vii Cunneen and McDonald, *Keeping Aboriginal and Torres Strait Islander People Out of Custody*, ATSIIC 1997
- viii *ibid*
- ix *ibid*
- x The information in this section was provided by the NSW Aboriginal Justice Advisory Council [www.agd.nsw.gov.au/ajac](http://www.agd.nsw.gov.au/ajac) and is reprinted with permission.
- xi *ibid*

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Department of Corrective Services:  
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Aboriginal Legal Service:  
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## THE STOLEN GENERATIONS



The 'Stolen Generations' are the generations of Aboriginal children taken away from their families by governments, churches and welfare bodies to be brought up 'white' in institutions or fostered out to white families.

Removing children from their families was official government policy in NSW between 1909 and 1969. However, the practice had begun in the earliest days of European settlement, when children were used as guides, servants and farm labour. The first 'native institution' at Parramatta in 1814 was to 'civilise' Aboriginal children.

In 1883, the Aborigines Protection Board was established in NSW. The Board, at first, had no legal powers to remove children, but oversaw the mass dislocation of Aboriginal people from their traditional lands onto reserves and stations. Aboriginal girls in particular were sent to homes established by the Board to be trained for domestic service.

The *Aborigines Protection Act 1909* (Cth) gave the Aborigines Protection Board legal sanction to take Aboriginal children from their families. In 1915, an amendment to the Act gave the Board power to remove any child without parental consent and without a court order.<sup>i</sup>

It is not known precisely how many Aboriginal children were taken away between 1909 and 1969, when the Aborigines Welfare Board (formerly the Aborigines Protection Board) was abolished. Poor record keeping, the loss of records and changes to departmental structures have made it almost impossible to trace many connections.

In *The Stolen Generations*, written for the NSW Ministry of Aboriginal Affairs in 1981, historian Peter Read documented 5,625 cases from available records. This did not include those whose Aboriginality was not recognised. Dr Read estimated that at least 100,000 people had been affected.

Almost every Aboriginal family has been affected in some way by the policies of child removal. Taking children from their families was one of the most devastating practices since white settlement and has profound repercussions for all Aboriginal people today.

### BRINGING THEM HOME

In 1995, the Commonwealth Attorney General established a National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, to be conducted by the Human Rights and Equal Opportunity Commission (HREOC).

The Inquiry report, *Bringing them home*, was tabled in the Commonwealth Parliament on 26 May 1997, the day before the opening of the National Reconciliation Convention. *Bringing them home* made 54 recommendations.

Former High Court Judge, Sir Ronald Wilson, chaired the HREOC Inquiry. After *Bringing them home* was released, he told an audience in Canberra that: *Children were removed because the Aboriginal race was seen as an embarrassment to white Australia. The aim was to strip the children of their Aboriginality, and accustom them to live in a white Australia. The tragedy was compounded when the children, as they grew up, encountered the racism which shaped the policy, and found themselves rejected by the very society for which they were being prepared.*<sup>ii</sup>

The Inquiry found that between one in three and one in ten Indigenous children were removed from their families under past government policies, but could not be more precise due to the poor state of records.

### THE EFFECTS OF REMOVAL TODAY

Despite some claims that children were removed 'for their own good' or that policies were essentially benign in intent, the separation of children from their families has had long term negative consequences.

The HREOC Inquiry found that children removed from their families are disadvantaged in the following ways:

- They are more likely to come to the attention of the police as they grow into adolescence
- They are more likely to suffer low self-esteem, depression and mental illness
- They are more vulnerable to physical, emotional and sexual abuse
- They had been almost always taught to reject their Aboriginality and Aboriginal culture
- They are unable to retain links with their land
- They cannot take a role in the cultural and spiritual life of their former communities
- They are unlikely to be able to establish their right to native title<sup>iii</sup>

### GOVERNMENT RESPONSES TO BRINGING THEM HOME

A major recommendation of *Bringing them home* was that all Australian Parliaments apologise to the Stolen Generations for the actions of their predecessors in forcibly removing children from their families.

All State and Territory Governments have apologised. Many local governments, police forces, government agencies, non-government organisations and church groups have apologised.

The Commonwealth Government has consistently refused to apologise to the Stolen Generations and their families. Instead the Commonwealth Parliament passed in 1999 a 'statement of regret' for past practices.

In response to the findings of the Inquiry, the Commonwealth Government announced a \$63 million package aimed at reuniting families and enabling Indigenous people to access archives and historical information about themselves and their families.

The reparations package includes:

- \$16 million for 50 new counsellors to those going through reunion processes
- \$11.25 m to establish a national network of family link-up services to assist reuniting with families
- \$9 m boost to culture and language maintenance programs
- \$17m to expand the network of regional centres for emotional and social well-being
- A national oral history project

The NSW Parliament was the first in Australia to apologise to members of the Stolen Generations and their families. This apology was bipartisan and unanimous.

On the 26 May 1999, the NSW Government launched its response to the national inquiry. This document is available from the Department of Aboriginal Affairs at [enquiries@daa.nsw.gov.au](mailto:enquiries@daa.nsw.gov.au).

## RECENT DEVELOPMENTS

In October 1999 the Commonwealth Senate carried a motion to initiate an inquiry into the effectiveness and adequacy of the Commonwealth Government's *Response to Bringing them home*.

In March 2000 the Commonwealth Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron, submitted the Commonwealth Government's response to the senate inquiry. This response queried the existence of the Stolen Generation, saying that no more than ten percent of children were taken and that this did not constitute a 'generation'.

In the Northern Territory, two members of the Stolen Generations, Lorna Cubillo and Peter Gunner, took a claim for compensation to the Supreme Court. The case was dismissed due to the lack of official records proving the Commonwealth's liability in removing Mrs Cubillo and Mr Gunner from their families as children. However the judge, Justice Maurice O'Loughlin, found that "Neither the evidence in this trial nor the reasons for judgment deny the existence of the 'stolen generation'."

The Commonwealth Government spent nearly \$9 million defending the case, prompting recent calls for a Reparations Tribunal. A model for such a tribunal has been developed by the Public Interest Advocacy Centre.

The national memorial, Reconciliation Place, offended many Aboriginal people by depicting the Stolen Generations as happy children playing and singing. The Commonwealth Government initially defended the content of the memorial then agreed to consult with members of the Stolen Generations and have the offending 'Separation Sliver' withdrawn and redesigned. The incomplete memorial was opened in July 2002.

The film *Rabbit Proof Fence*, seen by a national and international audience, tells the true story of three young Aboriginal girls who were taken from their families and institutionalised and their escape and journey home following the rabbit proof fence. The film has taken over \$7 000 000 at the Australian box office and won the Best Film Award at the 2002 AFI Awards.

On May 26, communities across the country join in ceremonies to mark National Sorry Day and the Journey of Healing.

i *Securing the Truth – NSW Government Submission to the Human Rights and Equal Opportunity Commission Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*

ii National Sorry Day website  
<http://www.austlii.edu.au/au/special/rsjproject/sorry/status.htm>

iii Commonwealth Race Discrimination Commissioner, *Face the Facts 1997*

## For more information contact:

NSW Department of Aboriginal Affairs:  
[enquiries@daa.nsw.gov.au](mailto:enquiries@daa.nsw.gov.au)

Human Rights & Equal Opportunity Commission:  
(61 2) 9284 9604

Aboriginal & Torres Strait Islander Commission:  
(61 2) 6121 4000

Link-Up Aboriginal Corporation (NSW):  
(61 2) 4759 1911

National Sorry Day Committee:  
(61 2) 6282 3455



## A COMPARISON OF LAND RIGHTS AND NATIVE TITLE IN NSW



Native title and land rights differ significantly in NSW. Native title is about recognising Indigenous people’s continuing connection to land in accordance with traditional law and custom. Land rights provided under the *Aboriginal Land Rights Act 1983 (NSW)* are about compensating Aboriginal people for past dispossession.

Land rights are statutory rights, (that is, they are instituted by virtue of an Act of a state parliament), whereas native title exists alongside the Australian common law and is sourced in traditional law.

	Native title	Land Rights
WHAT IS IT ABOUT?	<p>Native title is about Australian law recognising Indigenous peoples’ continuing rights and interests in land and waters in accordance with their traditional law and custom.</p> <p>The Australian Parliament enacted the <i>Native Title Act 1993 (Cth)</i>. The Act aims to provide a process for recognising and protecting native title rights and interests.</p>	<p>The NSW Government grants new rights in land to Aboriginal Land Councils (ALC) under the <i>Aboriginal Land Rights Act</i> which aims to compensate Aboriginal people for past dispossession, dislocation and removal.</p> <p>Amendments to the <i>Aboriginal Land Rights Act</i> were proclaimed in October 2002. The amendments will provide for greater internal accountability within the ALC system and allow the more efficient and effective operation of the Act.</p>
HOW LONG HAS IT BEEN AROUND?	<p>Rights and interests under Indigenous law and custom have been around since time immemorial.</p> <p>Australian law first recognised the traditional rights and interests of Indigenous people in land in the 1992 High Court <i>Mabo</i> decision. These rights and interests are called “native title”.</p> <p><i>The Native Title Act 1993(Cth)</i> commenced on 1 January 1994.</p>	<p>In NSW, land rights have been around since 1983 when the NSW Parliament passed the <i>Aboriginal Land Rights Act</i>.</p> <p>Land rights are not traditional rights. They are new rights created by legislation.</p>
IS TRADITIONAL CONNECTION REQUIRED?	<p>Yes. People must be able to show a continuous traditional connection with the area they are claiming.</p>	<p>No. In NSW, people do not require a traditional connection with an area to claim it under land rights (except where that land is a travelling stock reserve).</p>
WHO CAN MAKE A CLAIM?	<p>An Indigenous person/s authorised by the native title claim group to make a claim on their behalf.</p> <p>The person/s must also be a member/s of the native title claim group.</p>	<p>Local Aboriginal Land Councils (LALCs) and the NSW Aboriginal Land Council can make claims for the benefit of their members.</p> <p>Any adult Aboriginal person in NSW may become a member of a LALC for:</p> <ul style="list-style-type: none"> <li>■ the area in which they reside; and/or</li> <li>■ an area for which they can show an association.</li> </ul>

	Native title	Land Rights
WHERE CAN CLAIMS BE MADE?	<p>Native title can be claimed in all States and Territories in areas where native title has not been extinguished.</p> <p>Native title may be claimed over Crown land (eg Crown leases, national parks, state forests etc), land held under land rights and water areas.</p> <p>Native title cannot be claimed over land that has ever been held as private freehold and/or a lease which grants exclusive possession.</p>	<p>Under the <i>Aboriginal Land Rights Act</i>, land rights can be claimed in NSW where land is:</p> <ul style="list-style-type: none"> <li>■ held under the <i>Crown Lands Act 1901</i> (NSW)</li> <li>■ available for sale or lease under the <i>Crown Lands Act 1901</i> (NSW)</li> <li>■ not lawfully being used or occupied (eg. no licenses etc)</li> <li>■ not needed or likely to be needed for residential or essential public purposes</li> <li>■ not the subject of a registered native title claim or a positive determination of native title</li> </ul>
WHY MAKE A CLAIM?	<p>A successful native title claim achieves recognition and protection for existing traditional rights and interests in land/water.</p> <p>Communities may continue using the land for traditional purposes and “have a say” in developments and/or other activities that may affect their native title.</p>	<p>Land acquired under land rights may be used for any community purpose eg. building a cultural centre, providing housing or starting a commercial enterprise.</p> <p>Under land rights, land is acquired on a parcel by parcel basis.</p>
DOES IT MEAN OWNERSHIP?	<p>Sometimes, native title can mean full ownership. More often, native title co-exists alongside other rights and interests in the same area eg. the rights of the public in a national park, the rights of a lessee over a grazing lease, the rights of a land council under land rights etc.</p>	<p>Successful land rights means full ownership, with the exception of any co-existing native title rights.</p> <p>Successful land claims result in a grant of freehold title. A certificate of title is issued.</p>
WHO HOLDS THE RIGHTS?	<p>Either, the native title holders themselves or a Prescribed Body Corporate (PBC) who holds the title in trust.</p> <p>Either way, the native title holders must form a PBC to represent their interests in dealing with other agencies and companies.</p>	<p>The land is held in freehold or leasehold by the relevant land council</p>
WHO ARE THE CLAIMS LODGED WITH?	<p>The Commonwealth Court of Australia</p>	<p>The Registrar, <i>Aboriginal Land Rights Act</i> (NSW) 1983</p>
IS THERE A TIME LIMIT ? (IE SUNSET CLAUSE)	<p>There is no time limit on native title applications under the <i>Native Title Act 1993</i>.</p>	<p>There is no time limit on land rights claims under the <i>Aboriginal Land Rights Act</i>.</p>
WHERE DOES IT EXIST?	<p>Native title may exist in land and water areas throughout Australia where it has not been extinguished.</p>	<p>As at 1 April 2003, 6878 claims had been made under the <i>Aboriginal Land Rights Act</i>. Of these, 2041 claims have been granted (either partly or in full) covering a total area of approx. 78397 hectares.</p>

The relationship between native title and land rights in NSW is legally complex. However, as general principles:

- the grant of land rights is unlikely to extinguish native title;
- land rights and native title may co-exist;
- land rights cannot be asserted over land that is the subject of a registered native title claim or a positive determination of native title;
- land councils must comply with the *Aboriginal Land Rights Act* and the *Native Title Act* in dealings with land that may be subject to native title;
- land councils and native title claimants/holders may develop agreements about land subject to both native title and land rights.

(This chart draws on an article which appeared in the March Issue of *Native Title News* and is reprinted with the permission of the National Native Title Tribunal.)

**For more information, contact:**

The Registrar, *Aboriginal Land Rights Act*, 1983:  
(61 2) 9219 0747  
National Native Title Tribunal:  
(61 2) 1800 640 501  
NSW Aboriginal Land Council:  
(61 2) 9689 4444



## EDUCATION



From the beginning of the Dreaming, education in Aboriginal Australia was community-based and part of daily life from birth to death. Teaching, learning and sharing information were, and still are, intrinsic parts of Aboriginal cultures with embedded protocols and systems. As the British invasion spread across the continent from 1788, Aboriginal cultures, including its many hundreds of sophisticated languages, systems of land tenure and intricate kinship systems, were seen as inferior and Aboriginal people as needing to be civilised and Christianised.

In 1848, the Board of National Education reported that it was 'impracticable to attempt to provide any form of education for the children of the blacks'. From 1883, Aboriginal children could be barred from public schools if white parents objected. This regulation stayed in the Teacher's Handbook until 1972, the year the White Australia Policy was abolished. The Board set up Aboriginal schools on reserves, with untrained teachers (usually managers' wives) and a lower curriculum – Grade 3 primary level until 1938.

Assimilation became national policy in 1937. Education was seen as the way to achieve the assimilation of Aboriginal people into white society, though Aboriginal children did not have regular access to primary schooling until the 1950s, and secondary schooling until the 1960s. In 1970, there were three Aboriginal Higher School Certificate (HSC) students in NSW and by 1980 Aboriginal school completion was a mere 6.4%. In 1969, the Commonwealth provided secondary grants to encourage Aboriginal students to stay on at school which later became Aboriginal study grants (Abstudy).

Reports such as *Bringing them home* and the Royal Commission into Aboriginal Deaths in Custody, have drawn attention to the relationship between past racist policies and practices in education which excluded or marginalised Indigenous children, and contemporary low secondary school retention rates and low participation rates in tertiary education. Unfortunately, the 2002 NSW Public Education Inquiry Report and *Kata Kulpa*, a Commonwealth report from a Senate Committee inquiry into the effectiveness of education and training for Indigenous Australians both find that overall outcomes for Indigenous people in education and employment are unacceptable and there has been more success in 'Aboriginalising' the curriculum than improving outcomes.

### CAN'T HEAR, CAN'T LEARN

In 1989, an inner Sydney survey found that up to 80% of Aboriginal students were affected by Otitis Media – a middle ear disease commonly referred to as 'glue ear' which impedes hearing. Otitis Media has been a major health problem affecting Aboriginal children. In 1998, the *NSW Aboriginal Child Otitis Media Strategy* was launched with Commonwealth funding of \$500,000 over three years. This strategy has proven to be highly effective in diagnosing and treating thousands of Aboriginal children in schools and communities.

### PARTNERSHIP WITH THE AECG

From the 1970s, Aboriginal Education Consultative Groups (AECGs) began to lobby for appropriate education for Aboriginal people. The NSW AECG was established in 1976 with a mandate to provide Aboriginal community input into Aboriginal education at all levels. The AECG lobbied for Aboriginal Education Assistants in schools with high Aboriginal student enrolments, Aboriginal Community Liaison Officers to involve communities, Aboriginal Consultants advising schools on Aboriginal education, and Aboriginal Education Units in head offices. Over more than twenty years, the NSW AECG and the NSW Department of Education and Training (DET) have developed a strong partnership. In 1999 DET and AECG signed an agreement to formalise this partnership. The agreement has contributed to many achievements including increased Aboriginal student enrolment in preschools and TAFE.

### ABORIGINAL EDUCATION POLICY

In 1982, DET developed the first *NSW Aboriginal Education Policy* (AEP) in partnership with the NSW AECG. The policy was about educating Aboriginal students, involving Aboriginal communities and promoting culturally appropriate teaching. The policy was made mandatory in 1987 but a large number of schools claimed that the AEP should not apply to them as they had few or no Aboriginal students and/or community. The policy was rewritten in 1995 by the AECG and DET to focus on Aboriginal student outcomes, educating all students about Aboriginal Australia and implementing mandatory annual school reporting of progress. The new policy is for 'all students, all staff, and all schools'.

The *National Aboriginal and Torres Strait Islander Education Policy* (NATSIEP) 1990, has provided supplementary funding for Aboriginal education across the country. It recognised the importance of Aboriginal community involvement and introduced funding programs for tutorial assistance, Aboriginal parent and community input into schools and vocational and careers programs for Aboriginal

students. In 1997, all State, Territory and Commonwealth Education Ministers agreed on a national goal which stated that every child leaving primary school should be numerate and be able to read, write and spell at an appropriate level.

In March 2000, the Commonwealth began the *National Indigenous English Literacy and Numeracy Strategy* (NIELNS) with \$27 million in funding over four years for strategies to improve Indigenous literacy, numeracy, attendance and retention. NIELNS initiatives include Maths in Context for Aboriginal Students, Aboriginal Community Awareness in School Numeracy Programs, and Successful Transition from Home to School program.

The Indigenous Education Strategic Initiatives Program (IESIP) is a further Indigenous education program under the Commonwealth policy. IESIP is a targeted program and provides supplementary financial assistance to providers of preschool, school and vocational education.

### VOCATIONAL EDUCATION AND TRAINING AND TERTIARY EDUCATION

From 1983, Colleges of Advanced Education, later universities, began to develop Aboriginal 'enclaves' to support Aboriginal students.

In the mid to late 1970s, the NSW Department of Technical and Further Education (TAFE) began providing 'second-chance' access courses for Aboriginal people. By the end of the 1980s, over half the Aboriginal TAFE students in Australia were enrolled in NSW. Over the last decade, there has been a continued rise in Aboriginal student enrolments in TAFE. This has been offset by declining enrolments in universities, reported to be caused by changes to Abstudy regulations which disadvantage Aboriginal mature-aged students, the people trying to get the 'second-chance' education and training.

Today, all Australian universities have Aboriginal centres to support Aboriginal students and promote the education of all students about Aboriginal Australia.

### ABORIGINAL STUDENT PROFILE

- The majority of Aboriginal students in NSW attend government schools.
- In 2000, 83.1% of NSW Aboriginal Year 3 students achieved the reading benchmark compared to the national percentage of 92.5%.
- In 2000, 70.9% of NSW Aboriginal Year 5 students achieved the reading benchmark compared to the national percentage of 87.4%.
- In 2000, 83.4% of NSW Aboriginal Year 3 students achieved the numeracy benchmark compared to the national percentage of 92.7%.
- In 2000, 73.5% of NSW Aboriginal Year 5 students achieved the numeracy benchmark compared to the national percentage of 89.6%.
- Less than half of young Indigenous people aged 15 to 19 are attending secondary schools. Consequently, only about 10% are completing their HSC. These figures

contrast with those of non-Indigenous Australians, of whom 70% are attending secondary school and about 30% are completing their HSC.

- The average attendance rate for Indigenous school students is 74% compared with 93% for non-Indigenous school students.
- Schools participation rates amongst Indigenous students decline rapidly 98% at age 14 to 31% at age 17.
- Of Indigenous people aged 15 years and over who have left school, only 17% have obtained a post-school qualification compared with 43% of the non-Indigenous population.

### OFFICE OF THE BOARD OF STUDIES

The Aboriginal Studies Team of the Board of Studies has developed the following:

- Elective Aboriginal Studies subjects for 7-10 and HSC students;
- Mandatory Aboriginal perspectives in primary and secondary history and geography;
- Significant Aboriginal perspectives in primary Human Society and Its Environment (Social Studies) and in a range of mainstream subjects;
- Aboriginal Careers Aspirations Programs in schools;
- Accreditation for locally designed Aboriginal language programs;
- Aboriginal languages video resource to promote successful Aboriginal language programs in schools; and
- Curriculum awareness training program for Aboriginal community members.

### ABORIGINAL PROVIDERS

Across Australia a network of independent Indigenous providers offer an Aboriginal alternative in education and training. The oldest of these is Tranby College in Glebe which opened in 1959. Also in NSW, Booroongen Djugun in Kempsey and the National Aboriginal and Islander Skills Development Association (NAISDA) have been successful in providing vocational education and training to Aboriginal people.

#### For more information contact:

Aboriginal Programs Unit,  
NSW Department of Education and Training:  
(02) 9244 5383  
Aboriginal Curriculum Unit,  
NSW Office of the Board of Studies:  
(02) 9367 8198  
NSW Aboriginal Education Consultative Group Incorporated  
(02) 9550 5666  
Indigenous Programs, Commonwealth Department of  
Education, Science and Training:  
(02) 6240 8111



## THE NSW GOVERNMENT COMMITMENT TO ABORIGINAL PEOPLE



The NSW Government, is committed to addressing the disadvantage that Aboriginal people continue to face today.

The NSW Government is committed to improving outcomes for Aboriginal people in the following ways:

Improving Living Conditions for Aboriginal Communities

- In 1998, the NSW Government launched the Aboriginal Communities Development Program (ACDP), designed to provide and upgrade services and improve living conditions in Aboriginal communities across the state.
- \$200 million has been committed to the ACDP for a period of 8 years. In this time, services such as housing, water, sewerage, roads and community facilities are being provided to those Aboriginal communities most in need of improved environmental health and infrastructure.

In two years, the ACDP has achieved:

- One hundred and sixty eight Aboriginal apprentices/trainees have been employed in bricklaying, carpentry and landscaping across the state.
- Major infrastructure work, including new houses and community facilities, has commenced in Bourke, Coonamble, Dareton, Goodooga, Gulargambone, Muli Muli, Walgett, Armidale, Brewarrina, Cabbage tree Island, Enngonia, Moree, Murrin Bridge, Weilmoringle and Wilcannia.
- Forty three communities have had urgent water and sewerage problems fixed, which will result in better environmental health.
- Six communities comprising over 700 Aboriginal people have been connected to clean water.
- 'Housing for Health', a household survey by qualified tradespersons to assess living conditions, has been conducted in 674 homes across NSW.

### BETTER HEALTH OUTCOMES

Under the NSW Aboriginal Health Partnership Agreement, the NSW Government is working with the Aboriginal Health and Medical Research Council of NSW, the peak body for Aboriginal community controlled health services in NSW, to develop a number of Aboriginal health initiatives, including:  
A NSW Rural and Remote Aboriginal Nursing Strategy  
A NSW Aboriginal Oral Health Strategy

A NSW Aboriginal Health Information Strategy  
A NSW Aboriginal Vascular Health Program  
A NSW Aboriginal Maternal and Infant Health Strategy  
A NSW Otitis Media Strategic Plan for Aboriginal Children  
A NSW Aboriginal Men's Health Implementation Plan; and  
A NSW Aboriginal Mental Health Policy.

In addition, the NSW Government has committed \$1.4million per annum to implementing the Aboriginal Family Health Strategy which aims to engage and empower Aboriginal families, communities and relevant agencies to work together to reduce family violence, sexual assault and child abuse.

For more information contact:

NSW Health  
(61 2) 9391 9000

### A MORE RESPONSIVE JUSTICE SYSTEM

- The NSW Government funds the Aboriginal Justice Advisory Council, a council of Aboriginal people established to provide advice to the New South Wales Government on law and justice issues affecting Aboriginal people in this state.
- The NSW Police Service *Aboriginal Policy Statement and Strategic Plan* sets out strategies for police in building productive relations with Aboriginal communities. A review of the policy has led to the creation of the Police Aboriginal Strategic Advisory Council (PASAC), a monitoring body chaired by the Commissioner of Police with local and regional representatives of Aboriginal and non Aboriginal communities and police. PASAC will monitor the implementation of the policy.
- The *Young Offenders Act 1997* (NSW) aims to 'provide an alternative process to court proceedings for dealing with children who commit certain offences. The alternative begins with police warnings and cautions, graduating to youth justice conferences.
- The Department of Juvenile Justice's *Aboriginal Over Representation Strategic Plan 2003-2005* is a blueprint for new measures to address the issue of over-representation of young Aboriginal people. The Plan provides improved coordination and strategic focus to work already being undertaken by the Department.
- The Department of Corrective Services has developed and implemented a Second Chance Program, which targets young first-time inmates in the west and north west of the State by establishing a diversion from the prison environment. The *Mobile Outreach Program*, a cultural

link program, provides minimum-security inmates with opportunities to work with Aboriginal communities thereby acquiring or enhancing cultural knowledge and skills in cultural heritage management.

**For more information contact:**

NSW Aboriginal Justice Advisory Council:

(61 2) 9228 8106

Department of Corrective Services:

(61 2) 9289 1333

Ministry of Police:

(61 2) 9339 0600

Department of Juvenile Justice:

(61 2) 9219 9400

### BETTER FAMILY AND COMMUNITY SUPPORT SERVICES

- Department of Community Services (DoCS) provides funding for the Aboriginal Child, Family and Community Care State Secretariat. The Secretariat and DoCS work in partnership to achieve enhanced service provision for Aboriginal children and families.
- In May 2000 the Department of Aboriginal Affairs and the Department of Ageing Disability and Home Care co-hosted *Aboriginal Seniors Yarn Up*. In July 2002, *Yarn Up2 Growing Up our Leaders* followed on from the first *Yarn Up*, bringing together Aboriginal seniors and young people to discuss leadership and capacity building.

**For more information contact**

Department of Ageing, Disability and Home Care:

(61 2) 8270 2000

Department of Community Service:

(61 2) 9716 2222

### BETTER OUTCOMES IN EDUCATION AND TRAINING

- The NSW Department of Education and Training has an Aboriginal Education and Training Policy. Its aims are to promote the educational achievements of Aboriginal students and to educate all students about Aboriginal Australia. Approximately 2,072 schools, both primary and secondary, have initiated the Aboriginal Education and Training Policy.

**For further information contact**

NSW Department of Education and Training:

(61 2) 9561 8000

### RESPECTING ABORIGINAL PEOPLE'S RELATIONSHIP WITH THEIR COUNTRY

- Under the *National Parks (Aboriginal Ownership) Act 1996* (NSW), Mutawintji National Park has been transferred to Aboriginal ownership.

- Under the *Aboriginal Land Rights Act 1983* (NSW), 2,041 claims have been granted (either partly or in full) covering a total area of approx. 78,397 hectares.
- Amendments to the *Aboriginal Land Rights Act 1983* (NSW) were proclaimed in October 2002. The amendments will provide for greater internal accountability within the ALC system and allow the more efficient and effective operation of the Act.
- In February 2003 the NSW government allocated \$5 million for an Aboriginal Water Trust.

### SUPPORTING ABORIGINAL CULTURE

- The NSW Aboriginal Languages Resource Centre was opened in March 2003 as one component of the NSW Government's Aboriginal languages policy. This policy is Australia's first Aboriginal languages policy to work to revive and permanently preserve some of the 70 Indigenous languages once spoken across the State.

### TOWARDS RECONCILIATION

- The NSW Parliament was the first Parliament to apologise on behalf of the people of NSW to Aboriginal people for the Stolen Generations.
- The NSW Government supported the *Talkin' Up Reconciliation Convention* attended by over 1,000 people in Wollongong.
- The NSW Government has committed a further \$100 000 per annum over four years to projects that build capacity in the reconciliation movement.

**For more information contact**

NSW Reconciliation Council

[enquiries@daa.nsw.gov.au](mailto:enquiries@daa.nsw.gov.au)

The NSW Government is developing a new plan for Aboriginal Affairs. Called *Two Ways Together, Partnerships: A New Way of Doing Business with Aboriginal People*. The key features are:

- it is a ten year plan
- it will be a government requirement that the processes and agreed strategies will be followed by all agencies
- government agencies will work in a coordinated approach
- there will be targets and a monitoring system to ensure agencies are held accountable for actions and results
- CEOs of government agencies will be held accountable through performance agreements

**For more information contact**

NSW Department of Aboriginal Affairs:

[enquiries@daa.nsw.gov.au](mailto:enquiries@daa.nsw.gov.au), or

Web: [www.daa.nsw.gov.au](http://www.daa.nsw.gov.au)



## RECONCILIATION



### The final recommendation of the Royal Commission into Aboriginal Deaths in Custody was a formal process of reconciliation between Indigenous and other Australians.

In response the Commonwealth Government established the Council for Aboriginal Reconciliation (CAR) in October 1991 with the unanimous support of the Parliament.

The Council's vision was:

*A united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all.*

The Council's charter was to raise public awareness and consult on a 'Document of Reconciliation' within a ten year legislated period. This became the largest consultation process undertaken in Australia.

Community consultations on reconciliation were conducted in tandem with an education and public awareness campaign. The Australians for Reconciliation program, reconciliation study circles and the Council's own publications increased public knowledge.

The release of the *Bringing them home* report and the winding back of native title rights by the *Wik* amendments further heightened public debate about Indigenous issues. The people's movement continued to gain momentum with the formation of state reconciliation councils, local reconciliation groups and other organisations such as Australians for Native Title and Reconciliation (ANTAR) and Women for Wik.

The 1997 Reconciliation Convention held in Melbourne gave national prominence to Reconciliation. Council Chairperson Patrick Dodson called on the nation to join the people's movement.

The Council's widespread consultations identified the need and support for *Documents of Reconciliation: the Declaration of Reconciliation*, embodying the symbolic and aspirational aspects of reconciliation and the *Roadmap for Reconciliation* containing four national strategies to advance the economic and social factors underpinning reconciliation.

#### CORROBOREE 2000

In Sydney on the weekend of May 27 and 28, 2000, the Council for Aboriginal Reconciliation staged Corroboree 2000. On May 27 the Council presented to the Governor

General, and assembled parliamentary leaders of Australia, the *Documents for Reconciliation*.

Many elements of the Documents were unacceptable to the Coalition Government, in particular the call for an apology to Aboriginal people for past government practices, the concept of self determination and the acceptance of customary law. In fact, the Commonwealth government pre-released its own reworded version of the *Declaration for Reconciliation*.

On May 28, over 300 000 people participated in a People's Walk for Reconciliation across the Sydney Harbour Bridge. Many politicians including the Leader of the Commonwealth Opposition, the NSW Premier and the NSW Opposition Leader participated. The Prime Minister did not. In the months following, reconciliation walks were held in state capitals and in many smaller regional and rural towns. In many communities these walks have become an annual event.

The CAR presented its final report to the Commonwealth Parliament in December 2000. The report contained 6 recommendations that would 'give effect' to the reconciliation documents. They were:

- 1 The Council of Australian Governments (COAG) agree to implement and monitor a national framework whereby all governments and ATSIC work to overcome Aboriginal and Torres Strait Islanders peoples' disadvantage through setting program performance benchmarks that are measurable (including timelines), are agreed in partnership with Aboriginal and Torres Strait Islander peoples and communities, and are publicly reported.
- 2 All parliaments and local governments pass formal motions of support for the *Australian Declaration Towards Reconciliation* and the *Roadmap for Reconciliation*, enshrine their basic principles in appropriate legislation, and determine how their key recommendations can best be implemented in their jurisdictions.
- 3 The Commonwealth Parliament prepare legislation for a referendum which seeks to:
  - recognise Aboriginal and Torres Strait Islander peoples as the first peoples of Australia in a new preamble to the Constitution
  - remove section 25 of the Constitution and introduce a new section making it unlawful to adversely discriminate against any people on the ground of race.
- 4 Recognising that the formal reconciliation process over the last decade has achieved much and has helped bring Australians together, all levels of government, non-government, business, peak bodies, communities and

individuals commit themselves to continuing the process and sustaining it by:

- affirming the *Australian Declaration Towards Reconciliation* and actioning the *Roadmap for Reconciliation*;
- providing resources for reconciliation activities and involving Aboriginal and Torres Strait Islander peoples in their work;
- undertaking educational and public awareness activities to help improve understanding and relations between Aboriginal and Torres Strait Islander peoples and the wider community; and
- supporting Reconciliation Australia, the foundation which has been established to maintain a national leadership focus for reconciliation, report on progress, provide information and raise funds to promote and support reconciliation.

- 5 Each Government and Parliament:
  - recognise that this land and its waters were settled as colonies without treaty or consent and that to advance reconciliation it would be most desirable if there were agreements or treaties; and
  - negotiate a process through which this might be achieved that protects the political, legal, cultural and economic position of Aboriginal and Torres Strait Islander peoples.
- 6 That the Commonwealth Parliament enact legislation (for which the Council has provided a draft) to put in place a process which will unite all Australians by way of an agreement, or treaty, through which unresolved issues of reconciliation can be resolved.

The legislated process for reconciliation ended on December 31, 2000 and the Council for Aboriginal Reconciliation ceased to exist.

A new independent, not for profit body, Reconciliation Australia was formed to provide a continuing national focus for reconciliation, to report on progress to the Australian community, to circulate information, to encourage partnerships and to provide forums for discussion.

In December 2002 the Commonwealth Government released its response to *Reconciliation: Australia's Challenge*, the CAR's final report. The Government did not commit to action on any of the recommendations of the report except to indicate that if there was sufficient public support a referendum on deleting section 25 of the constitution would be held. The response reiterated the Government's commitment to 'practical reconciliation'.

In January 2003 the NSW Government provided the NSW Reconciliation Council with its response to the CAR final report. To date only the Commonwealth and NSW Governments have formally responded.

A Commonwealth Senate Inquiry into national progress on reconciliation will hand down its findings in 2003.

## RECONCILIATION IN NSW

- The NSW Parliament was the first parliament to apologise on behalf of the people of NSW to Aboriginal people for past government practices.
- NSW was the first Government to provide funding for its state reconciliation body to ensure the reconciliation process continued at a local community and state level.

The NSW Reconciliation Council is the peak body representing reconciliation in NSW. The Council advises the NSW Government and works with many organisations on reconciliation issues in NSW. It represents over 55 local reconciliation groups across the state.

Some examples of reconciliation in action at the state and local level are:

### Budyari Ngalaya – First Peoples' Business Partnerships

This is an initiative of the NSW Government and the NSW Reconciliation Council to promote alliances between Australian business and Aboriginal people and facilitate Aboriginal economic development.

### Yarn Up 2 – Growing Up Our Leaders

Yarn Up 2 was a three day gathering of senior and young Aboriginal people from across NSW to discuss leadership and capacity building.

### Myall Creek Memorial

In 1838 a massacre of 28 Wirrayaraay men, women and children by white stockman occurred at Myall Creek. Myall Creek became uniquely famous because a number of the perpetrators of the massacre were brought to justice and ultimately hung.

In 1998, a conference on reconciliation held at Myall Creek decided to erect a permanent memorial at the massacre site. A committee was formed, made up of descendants of the Wirrayarraay people, descendants of the perpetrators and local non Indigenous people. The memorial plaque would remember the people who had been murdered and would acknowledge the people who had acted for justice. The memorial would also help reconcile Aboriginal and non Aboriginal people.

The memorial was dedicated in on June 10, 2000 and a memorial ceremony is held each year at the site.

### Reconciliation Contacts

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