

ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES BACKGROUND PAPER & POLICY

ACTU CONGRESS 2000

1 Preamble

- 1.1 Aboriginal and Torres Strait Islanders are the first people of this country.
- 1.2 As the original owners and occupiers of the continent, they developed, nurtured, and sustained unique, social and economic patterns of life and community.
- 1.3 From the time of the colonial invasion they have been dispossessed, oppressed and systematically denied both their fundamental rights and identity. This invasion was characterised by violent battles over rights to land, food and water; by exploitation; by systemic genocide; by deliberate removal from country and kin, especially in the case of children. In the words of the Stolen Generation report, *“the present plight, in terms of health, employment, education, living conditions and self esteem, of so many Aborigines must be acknowledged as largely flowing from what happened in the past. The dispossession, the destruction of hunting fields and the devastation of lives were all related.”*

2 Fundamental Principles

- 2.1 The ACTU's Aboriginal and Torres Strait Islander people policy accepts as fundamental, that justice for Aboriginal and Torres Strait Islander peoples, and reconciliation, will be ensured only on the basis of the following principles:
 - i) Recognition of rights unique to Aboriginal and Torres Strait Islander peoples as our First Peoples;
 - ii) Acceptance of Aboriginal and Torres Strait Islander peoples' right to self-determination;
 - iii) Acceptance of the central importance of the right to negotiate;

- iv) Negotiation of binding local, regional, state and national agreements as expressions of self-determination and vehicles for the elimination of economic and social disadvantage;
 - v) Recognition of Aboriginal and Torres Strait Islander peoples and their rights and agreements both within the constitution and through proclaimed legislation.
- 2.2 To further the on-going process of reconciliation the ACTU endorses the May 2000 'Australian Declaration Towards Reconciliation' and would support a call by Aboriginal and Torres Strait Islanders for a treaty setting out the issues, structure, resources and process of negotiation between Aboriginal and Torres Strait Islander peoples and governments, to deal with outstanding social justice issues.
3. Aboriginal and Torres Strait Islander peoples: A Social Justice Partnership
- 3.1 The ACTU considers that the development of an effective partnership with Aboriginal and Torres Strait Islander peoples is critical to the process of addressing the economic and social disadvantage and injustice faced by them. The acknowledgment of the role of unions in the injustices committed against Aboriginal and Torres Strait Islander peoples is essential to the development of this partnership
- 3.2 There have been many unionists including numbers of Aboriginal and Torres Strait Islander unionists who have defended and promoted the labour and union rights of Aboriginal and Torres Strait Islander working people.
- 3.3 However, the ACTU acknowledges the history of unions as part of the history of white colonisation and settlement, and has been characterised by:
- i) the activities of some unions in excluding Aboriginal and Torres Strait Islander peoples from membership eligibility;
 - ii) support of lower wages for Aboriginal and Torres Strait Islander workers;
 - iii) assistance in the exclusion of Aboriginal and Torres Strait Islander peoples from employment; and
 - iv) absence of appropriate representative structures for Aboriginal and Torres Strait Islander workers.
- 3.4 More recently, the ACTU, State Branches and affiliates have worked to improve its relationship with Aboriginal and Torres Strait Islander peoples through:

- i) membership of the first Council for Aboriginal Reconciliation; National Sorry Day Committee, and AN TAR (Australians for Native Title and Reconciliation)
- ii) offering a formal apology to Aboriginal and Torres Strait Islander peoples affected by the forced removal of children from their families.
- iii) Supporting the establishment of a working relationship with a variety of Aboriginal and Torres Strait Islander organisations;
- iv) Supporting the implementation of award wages for Aboriginal and Torres Strait Islander workers;
- v) Altering the ACTU rules to provide for the inclusion of designated Aboriginal and Torres Strait Islander positions on ACTU Executive;
- vi) Supporting Aboriginal and Torres Strait Islander peoples struggles for land rights through support for the Native Title Act, opposition to the Native Title (amendment) Act, and submissions to the UN on the Elimination of all forms of Racial Discrimination.

3.5 The ACTU commits to the development of an effective partnership with Aboriginal and Torres Strait Islander peoples and communities, and believes that such a partnership should:

- i) continue ACTU's involvement with, and commitment to, addressing social justice issues such as land rights, racism and reconciliation;
- ii) acknowledge the extent to which institutionalised racism within unions and workplaces, has deterred Aboriginal and Torres Strait Islander workers from embracing union culture;
- iii) continue to work towards the redress of the economic and social disadvantage faced by Aboriginal and Torres Strait Islander peoples, particularly in relation to employment;
- iv) strengthen representative structures within the ACTU to encourage participation by Aboriginal and Torres Strait Islander workers and,
- v) provide support and assistance to affiliates in order to improve Aboriginal and Torres Strait Islander representation within unions generally.

4 Unions and Aboriginal and Torres Strait Islander Workers

4.1 The challenges confronting unions and Aboriginal and Torres Strait Islander workers are considerable, and cannot be addressed in the absence of recognition of the extent of disadvantage faced by Aboriginal and Torres Strait Islander peoples. An example of this is the area of employment:

- i) Less Aboriginal and Torres Strait Islander workers are employed full time (60 per cent) than their non-Aboriginal and Torres Strait Islander counterparts (72 per cent).
- ii) In 1996, the overall average income for Aboriginal and Torres Strait Islander people was \$14,200 which was 30 per cent less than the average of \$21,100 for the total population.
- iii) In aggregate terms, it is estimated that Aboriginal and Torres Strait Islander incomes would have to increase by \$1.6 billion (in 1996 dollars) to achieve income equality.

4.2 To achieve employment equality with the rest of the Australian population, an additional 77,000 Aboriginal and Torres Strait Islander people would have to be employed by 2006.

4.3 In 1996, one fifth of all Aboriginal and Torres Strait Islander workers were participating in the CDEP scheme. As a consequence of this scheme, a form of "work for the dole", the official level of Aboriginal and Torres Strait Islander peoples employment grew during the 1990's at 3 per cent per annum. If this were to continue, the employment/population ratio for Aboriginal and Torres Strait Islander would decline from 39 per cent in 1996 to 38 per cent in 2006. By counting CDEP scheme participants employed, the proportion of Aboriginal and Torres Strait Islander adults in work would remain at just over one third. In the absence of CDEP scheme work, the unemployment rate for Aboriginal and Torres Strait Islander peoples will rise from 41 per cent of the labour force to 48 per cent by 2006.

4.4 The marginal position of Aboriginal and Torres Strait Islander communities is evidenced by a number of social indicators identified in the 1996 census:

- i) Aboriginal and Torres Strait Islander adults are less likely than their non-Aboriginal and Torres Strait Islander counterparts to have a post school qualification (11% versus 31%);
- ii) Only 31% of Aboriginal and Torres Strait Islander households lived in owner or purchaser occupied homes compared to 71% for other households;
- iii) Almost a third of all households living in improvised dwellings are Aboriginal or Torres Strait Islander households;

- iv) Aboriginal and Torres Strait Islander children are over-represented in the juvenile justice system, with 40% of children in 'corrective institutions for children' identified as Aboriginals or Torres Strait Islanders;
- v) Aboriginal and Torres Strait Islander adults are more likely than non-Aboriginal and Torres Strait Islander adults to have contact with legal or correctional services, with almost 19% of the adult prison population in 1997 being identified as Aboriginals or Torres Strait Islander;
- vi) Aboriginal and Torres Strait Islander people are more likely than other Australians, to be victims of violence and to suffer intentional injuries resulting in hospitalisation;
- vii) In 1991-96, life expectancy at birth was estimated to be 56.9 years for Aboriginal and Torres Strait Islander males and 61.7 years for females, compared to 75.2 years and 81.1 years respectively for the rest of the population;
- viii) Aboriginal and Torres Strait Islander people die at younger ages than do non-Aboriginal and Torres Strait Islander Australians, and this is true for almost every type of disease or condition for which information is available;
- ix) Aboriginal and Torres Strait Islander mothers give birth at a younger age than non-Aboriginal and Torres Strait Islander mothers, and in most States and territories their babies are about twice as likely to be of low birth weight and more than twice as likely to die at birth than are babies born to non-Aboriginal and Torres Strait Islander mothers.

4.5 As well as recognising the social disadvantage experienced by Aboriginal and Torres Strait Islander people, unions must also recognise the particular demands placed on Aboriginal and Torres Strait Islander peoples by cultural and community responsibilities. This recognition should take the form of continued active advocacy of the rights of Aboriginal and Torres Strait Islander workers to take paid leave to participate in activities of a cultural or ceremonial nature, underlined by the inclusion of appropriate clauses in awards and enterprise agreements.

4.6 It also needs to be recognised that a particular challenge for unions is that significant proportions of Aboriginal and Torres Strait Islander peoples are working in rural and remote areas.

4.7 At the formal institutional level, either through constitutional or rule changes there are designated positions for Aboriginal and Torres Strait Islander unionists on the Executive/Councils of AEU, NSW Teachers

Federation, NTEU, UTLC of SA and Unions WA, as well as the ACTU. Some unions have appointed or decided to appoint designated staff to service the interests of Aboriginal and Torres Strait Islander members (eg IEU, AEU, NTEU, HSUA), others use annual conferences to provide a meeting place for policy and programme development (eg NTEU) and other have formal/informal mechanisms such as committees/caucuses to mobilise and promote Aboriginal and Torres Strait Islander member rights (CPSU, UTLC SA). These examples can serve as a model for other unions seeking to improve Aboriginal and Torres Strait Islander representation.

5 Action

5.1 Aboriginal and Torres Strait Islander Voice and Representation

- i) The ACTU will work actively within its own structures and actively assist affiliates to develop and implement appropriate mechanisms to ensure the needs, aspirations and rights of Aboriginals and Torres Strait Islander peoples are recognised and strongly advocated. This is an essential step in developing partnership with Aboriginal and Torres Strait Islander peoples aimed at addressing disadvantage and also in promoting and recognising the Aboriginal and Torres Strait Islander peoples voice.
- ii) Aboriginal and Torres Strait Islander representatives on the ACTU Executive/Council must be provided with the necessary resources, as per normal circumstances, (including travel and accommodation) to enable them to represent the interests of Aboriginal and Torres Strait Islander unionists at the meetings of the Executive/Council.
- iii) To complement the existing Aboriginal and Torres Strait Islander networks and committees within unions, the ACTU will actively seek the cooperation and financial support of affiliates for Aboriginal and Torres Strait Islander union representatives to meet in an annual conference. Such a meeting of Aboriginal and Torres Strait Islander union members would be intended to consolidate and strengthen their voice within the union movement. The ACTU would expect to receive advice from the conference on strategies for increasing participation by Aboriginal and Torres Strait Islander unionists both within their own unions, as well as within the structures of the ACTU. The first such conference will be held in 2001.

5.2 Industrial: CDEP

- i) The Community Development Employment Programmes Scheme (CDEP), whilst assisting in the provisions of essential infrastructure and income support in Aboriginal and Torres Strait

Islander communities, does not address Aboriginal and Torres Strait Islander disadvantage in a number of ways.

- ii) The inadequacy of real employment opportunities for Aboriginal and Torres Strait Islander workers severely limits the capacity of CDEP to provide training opportunities in the context of a transition to paid work. In addition, the training opportunities themselves are severely limited arising from inadequate allocation of financial and human resources. Finally, the nature of the CDEP scheme which is seen by many participants as a form of 'work for the dole' scheme limits adequate award protection and proper application of occupational health and safety legislation.
- iii) These factors combine to understate the true extent of unemployment among Aboriginal and Torres Strait Islander peoples, whilst effectively diverting youth from more formal education and training opportunities.
- iv) The development of a federal minimum rights award to cover CDEP participants is seen as particularly relevant because it is the single largest area of employment for Aboriginal and Torres Strait Islander people with over 30,000 participants.
- v) In July 1999 a proposal by the ACTU was forwarded to ATSIC to investigate establishing such an award. The proposal contained the following principles:
 - a) The proposed award would only apply where no existing award/agreements, State or Federal applied, unless such awards/agreements provide wages and conditions less favourable.
 - b) Where an existing award/agreement was binding on a CDEP organisation for non-CDEP employees, that issue should first be considered.
 - c) The award would be based on the federal minimum hourly rate.
 - d) The award should provide a minimum entitlement equal to the relevant weekly CDEP entitlement.
 - e) The award could be augmented with classification structure, career path etc. and negotiated allowable matters.
 - f) The proposal be developed in close consultation with CDEP Participants & Organisations, ATSIC, the ACTU and affiliated unions.

Arising out of a meeting with ATSIC in August 1999 they referred the matter to DEWRSB which resulted in the process stalling.

- vii) The ACTU will work actively with affiliates, Aboriginal and Torres Strait Islander communities and ATSIC to pursue appropriate regulation of the CDEP scheme, whilst achieving improvements in the training, occupational health and safety and industrial arrangements applying to participants.

5.3 Industrial rights in employment

- i) The ACTU and affiliates have commenced a 'mapping' exercise of award and agreement coverage where a substantial proportion of employees are Aboriginal and Torres Strait Islander peoples. The purpose is to build a body of information on rights and entitlements that exist for Aboriginal and Torres Strait Islander workers. The information can be used to identify areas that do not have appropriate award/agreement coverage. The ACTU and affiliates will ensure the continuation of this work
- ii) While in a number of sectors, for example education and health, there are awards and agreements applying to Aboriginal and Torres Strait Islander workers, a number of impediments prevent them from receiving their proper entitlements. These impediments include:
 - a) inadequate funding to organisations to allow the payment of appropriate wages and the provision of appropriate conditions of employment such as long service leave, training and study leave and ceremonial leave;
 - b) inadequate human resource management skills within communities, many of which are managed by voluntary committees of management, to properly apply Awards and agreements
- iii) In recognition of these impediments, the ACTU commits to lobby for policy and financial commitment from State, Territory and Federal governments and other relevant bodies to support:
 - a) the development and implementation of a training programme for Aboriginal and Torres Strait Islander community managers including committee members, taking into account the diversity existing within and between those communities; and
 - b) supplementation of wage increases arising from the application of awards or agreements (similar to the movement to award wages programme).

- iii) Congress supports the affirmative action statement made by the Chairperson of ATSIC, Geoff Clarke. We will lobby all governments and political parties to enact legislative changes to give Aboriginal and Torres Strait Islander peoples equality of rights and equity in employment

6 Organising Aboriginal and Torres Strait Islander Workers

- 6.1 Consistent with the need to develop a partnership between Aboriginal and Torres Strait Islander workers and the union movement, the ACTU within its recruitment policy and programme, commits to ensure that Aboriginal and Torres Strait Islander cultural protocols and community aspirations are incorporated in all initiatives related to the recruitment and organisation of Aboriginal and Torres Strait Islander workers. This will be pursued through the establishment of appropriate dialogue with representative and cultural organisations, and with existing Aboriginal and Torres Strait Islander union members and networks.
- 6.2 In addition, the ACTU will encourage affiliates to identify appropriate training opportunities for non-Aboriginal and Torres Strait Islander union officials, aimed at improving understanding of the needs of Aboriginal and Torres Strait Islander workers, and the effect of majority race privilege on the pursuit of justice for Aboriginal and Torres Strait Islander workers.
- 6.3 Three particular programmes in which the ACTU will seek to ensure the participation of Aboriginal and Torres Strait Islander workers will be the Anna Stewart programme, TUTA, and the Organising Works programme.

7 Social Justice

- 7.1 In recognition of the relevance of the social position of Aboriginals and Torres Strait Islanders, and the obstacles presented to labour market and union participation by this social disadvantage, the ACTU will continue and strengthen its commitment to the broad array of initiatives. This will include:
 - i) continuing support for the achievement of Native Title rights for Aboriginal and Torres Strait Islander communities through bodies such as Australians for Native Title and Reconciliation (ANTAR);
 - ii) ongoing campaigning to ensure the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody, particularly those relating to employment;
 - iii) active support for increased government and private sector expenditure in the areas of Aboriginal and Torres Strait Islander

housing, arts, health, justice, employment, training and education;

- iv) the promotion of Aboriginal and Torres Strait Islander cultures and cultural activities as part of the ACTU's broader involvement with Australian communities;
- v) ensuring in any way possible, including the ACTU's submissions, the continuing voice of Aboriginal and Torres Strait Islander communities before the UN and its various bodies including the Human Rights Commission;
- vi) developing an effective response to the process of reconciliation particularly in national struggles aimed at promoting the recognition of Aboriginal and Torres Strait Islander rights and employment;
- vii) the continued involvement with the National Sorry Day Committee (NSDC) and its campaign to ensure the implementation of the "Bringing Them Home Report".