

doCip

E/CN.4/Sub.2/AC.4/1983/CRP.5
22 August 1983

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Indigenous Populations
Second session (8-12 August 1983)

WGIP 83/UN1/8

AUSTRALIAN GOVERNMENT POLICY WITH REGARD TO ABORIGINAL AUSTRALIANS

Since the coming to Australia of the first non-aboriginal settlers almost 200 years ago, the record of their dealings with Aborigines has been punctuated by dispossession, dispersal, disadvantage and racial discrimination. It has been up to Governments to work out and try and resolve outstanding differences with the original inhabitants of the country.

In recent years, and particularly since 1967 when a national referendum changed the Australian constitution to give the Australian Government powers in the area of aboriginal affairs, there has been a more enlightened approach. Extensive programmes have been developed to improve the health and welfare of Aborigines, to provide increased educational and employment training opportunities and improve housing and community services. Legal and medical services run by Aborigines have been established. Land rights have been granted in some parts of Australia. The franchise has been extended to Aborigines and some injustices suffered by them before the law have been removed. All of these programmes have been directed towards removing the past inequalities and ensure that Aborigines as Australian citizens enjoy the full range of rights to which they, as all Australian citizens, are entitled.

Despite the progress that has been made, however, Aborigines as a group remain the most disadvantaged in Australia's society.

Australia has a federal system of government comprising the Australian Government, six State Governments and the Government of the Northern Territory which, while not yet a State, exercises most of the powers of a State Government. This leads from time to time, to questions of the powers of the respective Governments.

This year, however, has seen a significant decision of the High Court in Australia which has removed a constitutional ambiguity which in the past has sometimes posed some difficulty in the development and implementation of policies for Aborigines. The High Court has clearly established that it is the Australian

Government, and not the State Governments, that has the ultimate legal and constitutional responsibility for aboriginal policy. While the Australian Government will consult as appropriate with State and territory Governments, ultimately it will exercise the legal and constitutional responsibility for Aborigines which it has.

Consultation with Aborigines is the mainstay of the Australian Government's approach to aboriginal affairs.

The National Aboriginal Conference, an elected body representing all Aborigines, is being asked to

- express aboriginal views on the long-term goals and objectives which the Government should pursue and the programmes it should adopt; and
- advise on the effectiveness of existing programmes and priorities for expenditure.

The Government wants the National Aboriginal Conference to become increasingly important as the principal advisory body to Government and to represent the views of the aboriginal people. Such an organization must and will be a major participant in all decisions affecting Aborigines which are made by the Australian Government. Its charter will be revised to reflect its changed role.

As aboriginal organizations, including the National Aboriginal Conference, accept increased responsibility, the pace of change for Aborigines is accelerating. The Government's policy is that Aborigines are placed in a position to determine their own futures. It has been clearly demonstrated that the best programmes are those that Aborigines organize themselves. Aboriginal people are the best qualified to speak about their own problems. They can see solutions which others, even with the best intentions, may not see.

Consistent with this belief the Australian Government is seeking greater participation in the management of bodies which provide services to Aborigines. For instance, the Government is encouraging the further development of medical and legal services which are managed by Aborigines themselves. The Aboriginal Development Commission, which is run by an Aboriginal Board, is an important body in fields of enterprise, housing and land organizations.

In the area of housing, the Australian Government recently obtained the agreement of the State Governments that they would consult with relevant aboriginal communities or their representatives and the Aboriginal Development Commission concerning aboriginal housing needs.

In education, the Government will facilitate the operations of aboriginal schools where communities want them.

There is much that remains to be done, both in terms of providing services at a standard the same as that enjoyed by non-Aboriginal members of the community and to achieving a community-wide understanding of the problems faced by Aboriginal Australians.

To this end, the Australian Government has developed proposals for a public awareness campaign aimed at improving race relations. The objectives of the proposals are to:

- encourage the development of positive attitudes towards Aborigines;
- build mutual respect, openness and trust and to diminish exclusiveness, eliminate racial prejudice and rejection;
- challenge the misconceptions within the broader community;
- provide more balanced and accurate information on Aborigines;
- promote dialogue and understanding.

The recent clarification of the Australian Government's constitutional power is of particular relevance in relation to land rights and to the protection of sacred sites and objects.

The Government recognizes that Aborigines place fundamental importance upon regaining and retaining rights to their traditional land. Significant progress has been made in the Northern Territory where a substantial area of land has been returned to traditional owners. In South Australia a large area has been granted to the Pitjantjatjars people and more in the Maralinga area is soon to be granted. A number of other States have passed, or are in the process of developing, aboriginal land rights legislation.

The Australian Government wishes to see a consistent national approach to land rights and is developing a set of principles to apply in all States and Territories.

Five goals in relation to aboriginal land rights have been proposed by the Australian Government. These are:

- (i) Aboriginal land should be held under inalienable freehold title;
- (ii) Aboriginal sites should be protected;
- (iii) Aborigines should control mining on aboriginal land;
- (iv) Aborigines should have access to mining royalties or equivalents;
- (v) Where return of land is not possible, adequate compensation to Aborigines for loss of land should be negotiated.

A working party of lawyers has been established representing both the National Aboriginal Conference and the Federation of Land Councils who will form part of an advisory and negotiating team which will accompany the Minister for Aboriginal Affairs in his consultations with all the States and Territories of Australia.

Uniform and clearly established principles on land rights will ensure, once and for all, the fundamental rights that exist between the aboriginal people and their relationship to the land. It would be hoped that this objective can be achieved by consensus. But the Australian Government will not hesitate to exercise the constitutional responsibility which it clearly has in this respect.

The recent decision of the High Court also clarified the Australian Government's powers in relation to sacred sites and objects. There is a need to see that aboriginal culture is widely recognized and respected by the broader mass of Australian people. To ensure that the aspirations and dignity and further development of aboriginal culture and heritage is effected the Australian Government is taking steps to ensure that particular and effective laws will apply across Australia in relation to aboriginal sacred sites.