



Law Council
OF AUSTRALIA

POLICY STATEMENT

Indigenous Australians and the Legal Profession

February 2010



Law Council of Australia Policy Statement on Indigenous Australians and the Legal Profession

The Law Council of Australia acknowledges the Aboriginal and Torres Strait Islander peoples as the original inhabitants and custodians of Australia. The Law Council acknowledges, in particular, the traditional custodians of the Canberra region, the land on which the Law Council of Australia has its offices.

In adopting this Policy Statement on Indigenous Australians and the Legal Profession, the Law Council of Australia recognises:

1. that Aboriginal and Torres Strait Islander peoples possess distinct cultures and identities and unique relationships with their lands, waters and resources;
2. that Indigenous Australians have been subject to significant dispossession, marginalisation and discrimination, and continue to experience widespread disadvantage, including in the areas of housing, health, education, employment, access to justice and participation in the political, economic, social and cultural life of the nation;
3. the particular cultural, linguistic, economic and geographic barriers that confront Indigenous Australians seeking legal assistance and access to justice;
4. that too many Indigenous Australians have died in custody and, notwithstanding the important work of the Royal Commission into Aboriginal Deaths in Custody, continue to die in custody;
5. that Indigenous Australians are significantly and unacceptably over-represented in Australian prisons and the criminal justice system;
6. that Indigenous Australians are under-represented in the Australian legal profession;
7. that Indigenous Australians, like all Australians, have a right to equality before the law, due process before the law and to be free from discrimination of any kind, in particular that based on their Indigenous origin or identity;
8. that Indigenous Australians, like all Australians, have the right to physical and mental integrity, liberty and security of person;
9. that Indigenous Australians have the right to self determination and to recognition and protection of their distinct culture and identities, as provided under inter alia the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the United Nations Declaration on the Rights of Indigenous Peoples;
10. that Indigenous Australians, through their representatives, have a right to be consulted about and participate in decision-making concerning legislative and policy changes affecting their rights and interests;
11. the importance to Indigenous Australians of alternative justice models which involve greater participation of the Indigenous community;
12. that Indigenous Australians may observe their customary laws and that these are sophisticated and complex systems of laws which continue to evolve and which deserve recognition, including where appropriate within the broader Australian legal system; and
13. the significant contribution of Indigenous Australians and their cultures to the Australian community and to the ongoing development of the Australian legal system.

Working in partnership with Indigenous Australians, the Law Council commits to:

Indigenous Australians and the legal system

1. promoting, as a matter of the highest priority, methods for reducing the over-representation of Indigenous Australians in the criminal justice system;
2. promoting, as a matter of the highest priority, methods for reducing unacceptable numbers of Indigenous deaths in custody;
3. promoting the development of alternative justice models involving greater participation of the Indigenous community, such as restorative justice models, Indigenous courts and community justice groups;
4. promoting the provision of Indigenous interpreter services and the training of Indigenous interpreters;
5. promoting the conduct of court hearings, in particular native title and land claim hearings, on Indigenous lands and in a culturally appropriate manner;
6. promoting approaches to native title law and practice (including the enactment of appropriate



amendments to the Native Title Act 1993 (Cth) and other reforms), which advance the beneficial purpose of the Act and facilitate the timely, efficient and, where appropriate, consensual resolution of claims;

7. promoting measures to protect the intellectual property of Indigenous Australians in their cultural heritage, traditional knowledge and traditional cultural expressions;
8. promoting awareness of Indigenous legal systems, laws and institutions within the broader Australian community and supporting their recognition, consistently with international human rights standards, in the Australian legal system;

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9. promoting the study of law by Indigenous Australians and providing particular support to Indigenous law students;
10. promoting the participation of Indigenous Australians in the legal profession and providing particular support to Indigenous lawyers;
11. promoting participation by members of the legal profession in Indigenous cultural education and training;
12. acknowledging the achievements of Indigenous law students and lawyers;

Protecting and promoting human rights

13. promoting substantive equality for Indigenous Australians before the law, including effective measures to ensure continuing improvement of their economic and social conditions and to ensure they are able to maintain and strengthen their institutions, cultures and traditions;
14. promoting the right of Indigenous Australians to understand and be understood in legal proceedings, at all times through the use of plain English and, where necessary, through the provision of interpreter services and other appropriate means acceptable to the individuals concerned;
15. challenging legislation, policies and practices that discriminate against and violate the human

rights of Indigenous Australians, and impede substantive equality before the law;

16. promoting implementation of the United Nations Declaration on the Rights of Indigenous Peoples and awareness of its provisions amongst members of the legal profession and the community generally;

Partnerships and reconciliation

17. the preparation and adoption of a reconciliation action plan, and promoting the preparation and adoption of reconciliation action plans by the Law Council's constituent bodies;
18. working in partnership with Indigenous communities and organisations to promote Indigenous Australians' rights and interests, respect for Indigenous Australian cultures, knowledge, perspectives and practices, and the reinvigoration and strengthening of Indigenous legal systems, laws and institutions;
19. promoting the economic and social empowerment of Indigenous Australians to overcome the economic and social disadvantages to which they have been, and continue to be, subject and supporting them in developing a capacity to participate fully in the broader Australian community, where they so choose;
20. promoting the development of representative Indigenous bodies and their recognition by Australian governments;
21. promoting the development of lasting and equitable settlements between Indigenous Australians and Australian Governments;
22. incorporating Indigenous Australian content and perspectives, as appropriate, into Law Council policies, practices and services; and
23. using this policy statement as a framework for ongoing activities of the Law Council towards reconciliation.

Authorised by LCA Directors

Law Council of Australia
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