

Discussion Paper. No. 13

**Aborigines, local government
and incorporated associations
in Western Australia.**

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This **is** the thirteenth **in the** Human Rights Commission's Discussion Paper series.

The Discussion Paper documents the findings of a research study undertaken **in** the Gascoyne-Murchison and Pilbara_ regions of Western Australia between July 1984 and July 1985. The author visited Canada in the latter part of 1985 and has incorporated, some comparative data on Canadian Indian self-government into her report.

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FOREWORD

The research reported in this Discussion Paper documents the relationship between Aborigines, their incorporated associations, and local government authorities in the Gascoyne-Murchison and Pilbara regions of Western Australia. The author examines the powers, functions and resources of Aboriginal incorporated associations, many of which were set up as a result of more enlightened Government policies towards Aborigines from the mid-1970s.

The report also provides a useful socio-economic and demographic description of the study region and its local government authorities. Ms Rumley discusses the influence of these factors on the level of participation by Aborigines in local government. Indeed, the Commission decided to fund the research as a result of its growing concern about Aboriginal access to the political system, particularly as regards voting rights. Until 1984, the local government situation in Western Australia appeared to discriminate in a variety of ways against Aboriginal people. Many Aborigines were, and indeed still are, effectively prevented from making use of their rights as a result of the cumulative effects of long-term discrimination and neglect, as well as the social and physical isolation of their communities. The study examines these factors, having in mind Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and ss.9, 11 and 13 of the Racial Discrimination Act 1975 (Cwlth); and Articles 5 and 25 of the International Covenant on Civil and Political Rights.

It was only in 1984 that amendments were made to Western Australia's Local Government Act 1960 providing for full adult franchise at the local government level. In the same year, laws relating to enrolment and voting became effective, so that it is now compulsory for all eligible Aboriginal persons

to have their names included on rolls for Commonwealth and State elections.

The Commission wishes to thank Ms Rumley for the labour and energy she channelled into both her field work - in remote areas of Western Australia - and her analysis and writing, as well as the many Aboriginal organisations and individuals who assisted her.

November 1986

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MAP 1. THE STUDY AREA

**MAP I
LOCAL GOVERNMENT AUTHORITIES
IN THE STUDY REGION**



PREFACE

This research report results from a suggestion from the Human Rights Commission that a research project on Aborigines and Local Government in Western Australia be undertaken. After discussions with a number of people, Aboriginal and non-Aboriginal, it was decided to examine aspects of the Aboriginal experience of local administration through both local government authorities and incorporated Aboriginal associations.

In examining such experience, the research takes into account and considers in some detail a variety of factors - historic, socio-economic, and legal - which directly or indirectly affect, or have affected, this experience.

The study focuses on the Gascoyne-Murchison and adjacent Pilbara areas of Western Australia. This area corresponds to the Aboriginal Affairs Planning Authority's North Central Region and the southern part of the North West Region. In addition, this area comprises all of the local government authorities (LGAs) of the Central and Pilbara Statistical Divisions of Western Australia, save for Port Hedland and Roebourne (Map 1). This area was chosen for two main reasons.

Firstly, it was considered necessary to concentrate the research on one region of the State in order to examine the issues in more detail yet at the same time allow for general conclusions to be drawn which may have wider implications. Secondly, this particular region contains a broadly representative range of Aboriginal living patterns - from desert communities to urban situations, from fringe camps and reserves to pastoral and mining settlements.

With reference to particular human rights as specified in both Commonwealth legislation and international instruments (which are outlined in Chapter 1 of this report), the research aims to assess in general the extent to which Aboriginal people in the study region are able equally to enjoy and exercise their

rights and freedoms in the sphere of local administration and government. In particular, the research considers political rights; rights of access to, and use of, places and facilities; rights to the provision of services and rights to self-determination or autonomy in the management of community or associated affairs.

The report suggests that the factors considered have contributed in varying degrees to a situation in which Aboriginal people are not in a position to equally enjoy and exercise their rights and freedoms in the sphere of local administration and government. Despite being counted as part of the population of local government areas as far as funding is concerned, Aborigines have not, in most instances, been receiving services comparable to most other residents. In addition, local government authorities have rarely recognised the special needs of Aboriginal people or communities or attempted to service them. At the same time, Aboriginal participation in local government affairs has been minimal until recently and the scope for autonomy in the management of community or association affairs has not been extensive.

Recent changes in Commonwealth and State policy and legislation, the most significant of which are outlined in the report, have removed remaining discriminatory aspects of legislation and have thus contributed to increased opportunities for Aboriginal participation in the political system and experience of self-management. Such measures, while giving equal rights to Aboriginal people in law, nevertheless fall short of international human rights obligations by not adequately ensuring that all Aboriginal people have the opportunity or the freedom to fully and equally take advantage of these rights. Changes in the law have been a necessary but not a sufficient condition for permitting both greater Aboriginal political participation and autonomy.

Research for the project was carried out in a number of ways. Library research provided the background for historical and

legislative analysis. Statistical data from published sources and other information were gathered and analysed. Three relatively brief periods of field work were undertaken in the study region and discussions, interviews and meetings held with Aboriginal community members, government officials (Federal, State and local), candidates for political office and others.

The report proceeds as follows. Chapter 1 outlines in more detail the aims and scope of the research and provides information on developments in the international sphere which provide a context within which the current research findings can be placed. Chapters 2 to 5 deal with different aspects of Aboriginal-local government interaction in the study region and focus on historical, socio-economic, fiscal and legal factors which relate to Aboriginal involvement in local government and local government involvement in service provision to Aborigines.

Chapter 2 provides an overview of some of the features of the historical relationship between local government authorities and Aboriginal people in Western Australia in general in order to consider the implications of the legacy of the past for current interactions in the study region.

Chapter 3 contains a socio-economic and demographic description of the study area which enables an assessment to be made of the likely implications of population and regional characteristics for involvement in local administration.

In Chapter 4 several aspects of local government functions and activities are outlined with a view to assessing their social and economic impact on the Aboriginal population for the study region and Chapter 5 deals with the general issue of the franchise and legislative changes relevant to Aborigines. In addition, this chapter discusses some details of recent Aboriginal participation in local government elections.

Chapters 6 and 7 deal specifically with the issue of Aboriginal autonomy in the study region by considering,

firstly, legislative aspects of incorporating other legislation which relates overtly to autonomy at the local level, and secondly, the role of incorporated Aboriginal associations. The report concludes by comparing current policy directions in Canada with those in Australia in order to assess among other things the implications of constitutional differences for indigenous people and options for future directions.

While the research and writing for this research project was being completed, several other developments and undertakings were ongoing which pertained in a number of ways, both direct and indirect, to the matters under consideration. Some of these are discussed in some detail in the report, whereas others are only mentioned in passing. Of the latter, attention is drawn in particular here to the Aboriginal Land Inquiry conducted by Paul Seaman, QC and the National Inquiry into Local Government Finance under the Chairmanship of Peter Self. The Aboriginal Land Inquiry in many ways set the immediate backdrop to Aboriginal issues and debate in the State during 1983 and 1984. The significance of the Seaman Inquiry process for Aboriginal people is noted in the report, but neither the specific findings and recommendations of, nor the subsequent response of the State Government to, the Seaman Report are dealt with in any detail in the current report.

The whole question of the provision and funding of services to Aborigines at the local level has come under close scrutiny recently. At the same time as a Federal-State Working Party is looking into current service provision for Aboriginal people and appropriate funding sources, formulae and mechanisms the Report of the National Inquiry into Local Government Finance 1985 has provided an additional catalyst to the identifying and assistance of disadvantaged local government authorities and to dealing with inequities in service provision. The recommendations of this report, if implemented, will undoubtedly have implications for Aboriginal people in local government authorities in the study region,

but it would be premature to do other than note this point at the time of writing.

The preparation of this report has benefited from discussions with many people, both inside and outside of the study region, and I would like to express my sincere appreciation to them.

I am particularly grateful for the input of Dennis Rumley who, as an initial co-researcher, was responsible for writing Chapter 3 and most of Chapter 4.

CHAPTER 1 INTRODUCTION

In this chapter, the scope of the research will be outlined more fully and several considerations will be assessed in greater detail in order to provide a more thorough appreciation of the issues to be raised. In examining the Aboriginal experience of local administration through both local government authorities and incorporated Aboriginal associations in the Gascoyne-Murchison area of Western Australia, this research, as indicated in the preface, takes into account a range of factors - historic, socio-economic, fiscal and legal which are considered to be crucial in understanding the dimensions of this experience. The research is particularly concerned to examine, with respect to human rights, issues of political participation and autonomy. These considerations of human rights, political participation and autonomy provide the main focus of discussion in this chapter.

1.1 Aborigines, local administration and human rights

The examination of Aboriginal interaction with and involvement in local government in the study region is related in this report to some specific human rights as outlined both in international instruments and Commonwealth legislation. Of particular relevance to this aspect of the research are certain provisions of the International Convention on the Elimination of All Forms of Racial Discrimination (Racial Discrimination Act 1975) and the International Covenant on Civil and Political Rights.

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination obliges States Parties to guarantee the right of everyone, regardless of race, colour, or ethnicity to equally enjoy various civil, economic, social and cultural rights, and rights of access to public places.

Section 9(1) of the Racial Discrimination Act 1975 (Cwlth) stipulates that:

It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

Sections 11 and 13 of this Act prohibit discrimination on racial grounds in relation respectively to access to and use of places, vehicles and facilities and to the provision of goods and services.

This research report also considers the extent to which Aboriginal people are in a position to exercise fully their political rights as specified in Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, which among other things obliges States Parties to guarantee everyone equal political rights

in particular the rights to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.

Article 25 of the International Covenant on Civil and Political Rights lays down an essentially similar provision regarding political rights and Article 5 of this same Covenant provides that no State, group or person has any right to

engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognised herein or at their limitation to a greater extent than is provided for in the present Covenant.

By examining incorporated Aboriginal associations in the study region, this research report further assesses the extent to

which Aboriginal people are able to achieve or have achieved autonomy in the management of their affairs. In making this assessment, consideration is given both to the government's policy of self-management as well as to the meaning and interpretation of Article 1 of the International Covenant on Civil and Political Rights, which states in part that

All peoples have the right of self-determination. By virtue of that right they freely determine their political status States Parties to the present Covenant shall promote the realization of the right of self-determination, and shall respect that right...

As well as relating findings to the human rights just indicated, this report also takes into account two further provisions contained in international instruments.

Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination provides that

States Parties shall, when the circumstances so warrant, take...special and concrete measures to ensure the adequate development and protection of certain racial groups...for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms

and Article 2 of the International Covenant on Civil and Political Rights stipulates that

...each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

1.2 Political participation

Political participation is one dimension of the Aboriginal experience of local administration being examined in this report. It is recognised that there is and always has been politics, political activity and political involvement within

Aboriginal societies, but the focus in this report is limited to Aboriginal political participation both in one level of the wider Australian society, that is in local government, and in incorporated associations which have been largely instigated by the wider Australian society.

It is useful here to outline and consider some of the variables which have been used to account for political participation and to indicate their relevance for Aboriginals in the study region. One main approach to the issue of explaining political participation and one which is seen as relevant to the present study, has emphasised the importance of the social, economic and political contexts, rather than individual variables.¹ For the purposes of the present study there are at least three related models that lend some insight into the relevance of the geographical context of the study region and its association with political participation - centre-periphery, urbanisation and modernisation, and community change.²

Although the centre-periphery model has been criticised on various grounds³, its general implications are relevant for the present study region. In essence, the model indicates the presence of a dominant entry and subordinate periphery⁴ and from the viewpoint of political participation implies that some individuals or regions are more integrated than others into the channels of political communication. The expectation is that those who are located near the centre of social and economic life will tend to participate more than those close to the periphery. Given the high concentration (more than 70 per cent) of Western Australia's population in metropolitan Perth, one might therefore expect relatively lower levels of political participation within the present study region. This expectation is reinforced by the maintenance of a 'colonial' Australia whose boundary cuts across the south-west portion of the study region. Attitudes toward Aborigines within 'colonial' Australia have ranged from 'benevolently paternal' to 'crudely exploitative'.⁵ These attitudes have undoubtedly contributed to a reduction in the locally-available

opportunities for Aboriginal political participation. In more general terms, it appears that individuals in peripheral locations participate less.⁸

A second explanatory model of political participation of relevance in the present study centres on the process of urbanisation, its effects and its relationship with modernisation. It has been argued that increased urbanisation tends to raise the level of literacy which is in turn associated with an increase in the degree of media exposure. The increase in media exposure is also related to wider economic participation which is in turn associated with greater political participation. It has been postulated that this basic Western model of modernisation reappears in virtually all modernising societies.⁷ From the viewpoint of political participation, the argument is that urbanisation stimulates the need and provides the necessary conditions for widespread participation.⁸ The essential 'rural' nature of the study region together with lower rates of Aboriginal economic participation combine to reduce Aboriginal political participation.

A third related explanatory model is concerned with the nature of community and community change and its association with political participation. Essentially, this view argues that the structure of the community can function to increase the opportunities for and encourage political participation. This view of community relies principally on the notion of political learning - that is, the longer an individual is exposed to politics, the more likely he or she is to participate.¹⁰ However, it appears that the relative importance of this function of community will in part be mediated by the degree of community homogeneity.¹¹ As far as the study region is concerned, the propensity for higher political participation is greatest in homogeneous Aboriginal communities which perhaps already have been politicised in some way either by a localised community issue, or by a more general Aboriginal issue such as land rights. On the other hand, certain districts may well contribute to an 'isolating

effect' conducive to non-participation.¹² This may well operate in the study region, especially for those Aborigines who live in larger settlements which are more heterogeneous and where Aboriginal community ties are relatively weak.

These general considerations provide some insight into variables which may account for prevailing rates of political participation in the study region. But such considerations assume that political rights to participate exist on the basis of universal and equal suffrage, which has not been the case until recently in Western Australia.

Full adult franchise at the local level has only recently been extended to occupants of non-rateable land in municipalities in Western Australia, and while some of the effects of this legislative change as far as Aboriginal people are concerned have already been felt in the study region, there is also a clear indication of the legacy of mutual disregard, neglect and distrust which has characterised much of municipal-Aboriginal relations in the past. Equal voting rights at the local level if exercised fully can only offer direct Aboriginal representation in municipal governments in an extremely limited number of shires or wards in the study region. While political, specifically electoral, participation cannot occur unless the right to do so exists in law, such participation is not in itself a guarantee of adequate or satisfactory outcomes as far as a numerically small indigenous group is concerned. Nevertheless, now that many more Aboriginal residents of local authority areas do have the right to vote in local government elections, there is more chance that candidates for office or incumbents will take some account of their Aboriginal constituents particularly when numbers count.

Several related questions arise with respect to Aboriginal participation in incorporated associations. Have Aborigines who experienced political exclusion from local government chosen to participate in their own incorporated associations instead? Have such associations undertaken to provide their

members with any of the local government services which were unavailable to them or difficult to obtain? Have incorporated Aboriginal associations acted as lobby groups at the local level? These questions and others will be addressed in the report, together with the general issue of autonomy and incorporated Aboriginal associations.

1.3 Autonomy

The concept of autonomy in the present context requires further comment. This issue will be taken up again in more detail in the next section, but at this point it is relevant to consider the Federal Government's policy of Aboriginal self-management and how this relates to incorporated Aboriginal associations. This policy approach is based on the Government's acknowledgement of 'the right of Aboriginal Australians to determine their own futures' and is intended to be the means for implementing government programs.

Self-management acknowledges that Aboriginals must be involved in the programs that concern them. They must determine their own priorities, develop initiatives and take responsibility for the decisions they make.¹³

The policy of self-management is intended to provide for Aboriginal involvement in making decisions which affect them and is seen as a significant departure from earlier policies

in which the answers to Aboriginal problems tended to be imposed by governments, officials and missionaries without enough thought being given to the needs and aspirations of the Aboriginals as seen by Aboriginals)-⁴

As noted in Appendix I successive governments have envisaged the policy of self-management being given effect through national bodies such as the National Aboriginal Conference (NAC), Aboriginal Development Corporation (ADC) and Aboriginal Hostels, through regional bodies such as Land Councils in the Northern Territory, through federally-funded Aboriginal medical and legal services, Aboriginal employment schemes and

through educational and arts advisory bodies. Although most if not all incorporated Aboriginal associations came into being as a result of the policy of self-management in the early 1970s, it is worth noting that these corporate bodies whose formation was so strongly advocated by Woodward, Rowley and others are not specifically mentioned in this document (Appendix I) as one of the means of implementing the Government's policy of self-management.

What was initially pronounced as a policy of self-determination by the Whitlam Labor Government in 1972, was renamed 'self-management' by the Liberal-National Country Party Government in 1975. No doubt 'self-determination' was interpreted as too strong a term for the Liberal-National Country Party Coalition Government's Aboriginal policy. This renaming of policy also reflected a shift in government thinking towards greater Aboriginal responsibility for success, failure and administration of programs. The emphasis shifted from just 'determining' to 'managing'.¹⁵

The matters of Aboriginal participation in the political system and autonomy arose as a consequence of the structure of relationships between Aboriginal and non-Aboriginal peoples which developed during the colonial period and after. Aboriginal peoples were originally self-governing, autonomous groups with means for political participation, whose governing mechanisms, localised and informal as they were, were not recognised by the society which was to dominate them. Ironically, at the same time as Aboriginal people are being accorded full political rights to participate in this dominant society which had previously and variously sought to exterminate, protect, evangelise, exploit or assimilate them, Aboriginal people are also, it seems, being accorded some degree of autonomy through the policy of self-management. It is arguable whether this latter policy represents a concession by government to Aboriginal demands for more control over their own lives, a recognition of the reality of a distinct Aboriginal society and culture which has managed to survive despite previous policies, or whether it represents an attempt

to try another policy where other policies have failed. On the face of it, participation in the wider political structure of Australian society and the move towards self-management might seem to represent contradictory options for Aboriginal people. But this does not seem to be the case. Aboriginal people for the most part are becoming more aware of the power of their vote, particularly in some areas, and yet still voice demands for more control over their own affairs.

In the following section, a number of these issues will be considered in the international context.

1.4 Aboriginal political participation and autonomy in international context

There has been domestic and international pressure upon Australia for policy and legislative change in the field of Aboriginal affairs. Growing demands within Australia, both Aboriginal and non-Aboriginal particularly during the 1960s, created the climate of opinion necessary to produce certain changes. Coupled with this were the post-war developments in the setting of standards for human rights which obliged Australia to look more closely at the situation of its Aboriginal peoples. The international setting has provided the forum for more recent developments in the field of human rights for indigenous peoples and is more likely to do so in the future.

This last decade has seen organisations of indigenous peoples from many countries join together to form the World Council of Indigenous Peoples to act as an international lobby group. Other international groups have taken an interest in the situation of Aborigines. International agencies have been showing increasing concern with the problems experienced by the world's indigenous peoples, as evidenced by the publication of several reports on the subject and the establishment of a special working group to address the matter in more detail.¹⁶ In 1981, the Human Rights Commission's Sub-Commission on the Prevention of Discrimination and the

Protection of Minorities recommended that a Working Group on Indigenous Population be set up to meet annually in Geneva. Its mandate included the following:

- (a) to review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations; and
- (b) to give special attention to the evolution of standards concerning the rights of indigenous populations, taking account of both the similarities and the differences in the situation and aspirations of indigenous populations throughout the world.

International agencies have become aware of the limitations of existing international instruments in protecting and promoting the rights of indigenous peoples. Principles and provisions concerning human rights and fundamental freedoms may not be fully applied or complied with in all countries and these may not be wholly adequate for the recognition and protection of the specific rights of indigenous populations. It is for this reason that the 1983 *Study of the problem of discrimination against indigenous populations: final report* (the Cobo Report) recommended that specific principles should be formulated to guide governments of all States in their dealings with indigenous populations. It was further recommended that these principles should contain specific provisions which 'may be deemed necessary for the full recognition and protection of the indispensable rights and freedoms of indigenous populations'¹⁷ Such steps would precede the preparation of a declaration of the rights and freedoms of indigenous populations and the drafting of a convention on the matter. Some of the preparatory work to achieve these ends is already in progress as a result of the activities of the Working Group on Indigenous Populations, and the Cobo Report recognised the value of its work in seeking to *define* the specific rights of indigenous populations and to set international standards for these.

It is useful to indicate in more detail the content of current international thinking on the subject of the political rights of indigenous peoples. Broadly, these political rights fall into two categories:

- (a) voting rights and political representation; and
- (b) self-determination and autonomy.

As far as the first category is concerned, the Cobo Report noted that the effective exercise of political rights by indigenous peoples is influenced by a wide range of factors and circumstances, mainly social and economic. Although the *de jure* situation had been improving with fewer discriminatory provisions existing (and hence an increase in electoral participation by indigenous persons) it was pointed out that a number of inadequacies continued to exist. In order to overcome unfavourable treatment of indigenous peoples in electoral matters, it was recommended, among other things, that measures be taken to ensure indigenous representation in public office. 'Such access to certain functions could be ensured by reserving a number of seats in Parliament and in provincial and municipal assemblies for indigenous candidates. ,18

The second category of political rights is possibly the more contentious, producing as it has a greater volume of debate, definitional points and literature. Whereas the right to self-determination is generally viewed as a right in international law, there has been disagreement and uncertainty over its applicability outside of the colonial context. How broadly is the word 'peoples' to be interpreted in Article 1 of the International Covenant on Civil and Political Rights which states in part: 'All peoples have the right of self-determination'.

Governments have for the most part been loth to recognise indigenous populations as such 'peoples' on the grounds of national unity and sovereignty, whereas indigenous populations claim that they are peoples with such a right. This latter

position is being increasingly accepted at the international level as a result in part of study reports and the lobbying activities of indigenous organisations. The Cobo Report recommended that 'self-determination...must be recognised as the basic pre-condition for the enjoyment by indigenous peoples of their fundamental rights and the determination of their own future'.¹⁹ At the July 1985 meeting (4th session) of the Working Group on Indigenous Populations in Geneva a draft declaration of principles prepared by indigenous organisations was proposed and included in the Working Group's report for comment. Among the principles proposed was the following:

All indigenous nations and peoples have the right to self-determination, by virtue of which they have the right to whatever degree of autonomy or self-government they choose. This includes the right to freely determine their political status, freely pursue their own economic, social, religious and cultural development, and determine their own membership and/or citizenship, without external interference.

This is a slightly more extended version of a fundamentally similar principle adopted at the Fourth General Assembly of the World Council of Indigenous Peoples in Panama in 1984. The plan of action for the Working Group on Indigenous Populations from 1986 onwards includes greater emphasis being placed on standard-setting activities with a specific agenda item for its fifth session being 'consideration of the right to autonomy, self-government and self-determination, including political representation and institutions'.

The question of a territorial and/or a resource base for self-determining indigenous peoples is, of course, highly significant in this whole debate. And while the matter of land rights is dealt with separately from rights of self-determination, both in legislative terms by national governments and in the drafting of principles or rights by indigenous organisations, it is maintained by indigenous groups that the one cannot exist without the other.

It has been pointed out that the concept of self-management as used in Australian Government policy for Aboriginal peoples is a much less ambitious concept than that of self-determination as it is now being discussed at the international level with respect to indigenous peoples.²⁰ While limited autonomy is conceded by the Australian Government to both those Aboriginal organisations mentioned in the previous section and to those to be discussed later, this falls short of self-government or self-determination as measured by developing international standards. Various commentators have pointed out that the right of self-determination or self-government for indigenous peoples exists at different levels and that autonomy may take different forms.²¹ Statehood, whether as an independent nation state or as part of a federal system is not the only form of political status desirable or possible as a consequence of the granting of the right of self-determination to indigenous peoples. Indeed, as Sculthorpe has noted:

It is by no means clear that the Aboriginal people would support a proposal for separate statehood, particularly given the massive resources which such a status would require. ..[other forms of political status] would give greater independence and autonomy to Aboriginal people than now exists without the burdens and practical problems of separate statehood.²²

The basic point about the right of self-determination is that it involves a *choice* on the part of indigenous peoples as to the degree and form of autonomy which they see as appropriate to their interests and needs. This point emphasises the fact that different groups or communities of indigenous peoples are in varying circumstances and may not all choose the same political status as a result of exercising their right to self-determination. Predominantly Aboriginal communities in relatively remote areas may be in a position to choose a political status which provides for more local autonomy and internal self-government than Aboriginal peoples living in urban areas. But while the attainment of autonomy or self-government as applied to indigenous peoples outside of a traditional land-base may be somewhat difficult to achieve

and, some would maintain, has no meaning, it can be argued that some measures can be devised and institutional responses made to the demand for the exercise of the right to self-determination on the part of indigenous peoples in urban areas. Such an argument does not preclude the possibility of the right to land being a basic right for all indigenous peoples, whatever their current situation, but simply emphasises the point made in a number of reports and submissions that in exercising their collective right to self-determination, indigenous peoples in different circumstances may choose to express this right in various forms of autonomy or self-government.

This chapter has drawn attention to the specific human rights considerations with which the present research is concerned. In addition, the concepts of political participation and autonomy have been discussed in terms of their relevance to the present study. After the main findings have been presented in the following chapters, these considerations regarding the human rights, political participation and autonomy of Aborigines as indigenous people will be referred to again in the concluding part of the report.

CHAPTER I ENDNOTES

1. See, for example, J. L. Lamare, 'Causal versus contextual analysis: a case study of Brazilian local political participation (1974) 27 *Western Political Quarterly*, 117-142.
2. D. Rumley, 'The geography of political participation' (1985) 16 *Australian Geographer*, 279-285.
3. For instance see B. M. Richardson, *The political culture of Japan*, University of California Press, Berkeley, 1974, and P. Claval, 'Centre-periphery and space: models of political geography' in J. Gottman (ed.) *Centre and periphery: spatial variation in politics*, Sage Publications Beverley Hills, 1980, pp. 63-71.
4. Gottman, op. cit., p.17.
5. C. D. Rowley, *The remote Aborigines*, Penguin, Harmondsworth, 1972, pp.2-3.
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7. D. Lerner, *The passing of traditional society*, Free Press, New York, 1958, p.46.
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11. R. R. Huckfeldt, 'Political participation and the neighbourhood social context' (1979) 23 *American Journal of Political Science*, 579-592.
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13. Department of Aboriginal Affairs, *Fact sheet*, No. August 1980.
14. Department of Aboriginal Affairs, *Aboriginal self management: background notes* 1983.

15. W. Saunders, 'From self-determination to self-management', in P. Loveday, (ed.) *Service delivery to remote communities*, North Australia Research Unit Monograph, Darwin, 1982.
16. See for example, United Nations *Study of the problem of discrimination against indigenous populations: final report*, (last part) submitted by the Special Rapporteur Mr J. R. M. Cobo, 1983, hereinafter called Cobo Report, and the annual reports of the Working Group on Indigenous Populations, 1982-85.
17. Cobo Report, p.79.
18. *ibid.*, p.74.
19. *ibid.*, p.74.
20. G. Nettheim, *Victims of the law*, George Allen & Unwin Australia, 1981, p.141.
21. See for example, Cobo Report, *op.cit.*, p.74 and H. Sculthorpe, *Aboriginal self-determination*, unpublished Human Rights project, Research Section, National Aboriginal Conference, 1981.
22. H. Sculthorpe, *ibid.*, p.36.

CHAPTER 2 ABORIGINES AND LOCAL GOVERNMENT:
HISTORICAL BACKGROUND

2.1 Introduction

This chapter outlines and discusses briefly a number of past incidents which have received coverage in the literature and the press and which indicate some of the ways in which the attitudes, actions and decisions of many local government authorities in Western Australia have affected the lives and life chances of Aboriginal people. The attempts of white Australians to exclude Aborigines from social interaction with them have been reflected, as Rowley noted, in the way in which many Aborigines live and where they live.¹ The existence on the edges of many towns of Aboriginal fringe settlements with few, if any, municipal services provided, is testimony both to the marginal status of Aborigines in the community and to neglect by local authorities. In the last four years, this problem has been addressed more specifically as a result of the implementation of a number of recommendations of a Commonwealth Government report.²

Indeed, it is evident that in refusing in many cases to share services with, or provide services to Aboriginal people within their boundaries, local government authorities have a long and clear history of discrimination against Aborigines. Many of the incidents to be referred to would now represent contraventions of provisions of both international instruments and Commonwealth legislation. While one of the aims of the present chapter is to draw attention to both general and specific instances of overt past discrimination against Aborigines by local governments, a further aim is to indicate that the historical pattern of discrimination by local government authorities against Aboriginal people still persists in a number of ways to the present. Whereas overt discriminatory practices may now appear to be less common at the local level than in the past, discriminatory attitudes

continue in a more covert way to disadvantage Aborigines in the provision and use of local government facilities and services.

2.2 Overview of Aboriginal-local government interaction (until 1950s)³

Some aspects of Aboriginal-local government interaction have resulted from general State-wide policy and practice and others can be seen to have resulted from specific local circumstances. In this section, attention is drawn to both these aspects. Incidents outlined are not confined to those which have occurred within the study region, but reference is also made to events in other parts of the State because these give additional insight into the general tenor or quality of past interaction. The focus is on incidents relating to schooling and housing.

In the process of the formation of local government in W.A. during the nineteenth century, attention was primarily given to improving roads and secondarily to providing other public amenities for the growing population of the State. The interests of the Aboriginal population were rarely, if ever, taken positively into account by the increasing number of local government authorities. However, by the turn of the century and up to the time of World War 1, attention began to be given by some local government councils and community groups to the Aboriginal population within their boundaries. However, this attention was almost entirely negative. For example, in 1902 the Broome Road Board passed a by-law under the Health Act prohibiting unemployed Aborigines from remaining in town after sundown. This regulation was to be disallowed as being ultra vires of the Act, and so the police then moved unemployed Aborigines out of town as vagrants.⁴ Such negative attention was given legal underpinning in the 1905 Aborigines Act, which, as well as giving the Chief Protector increased powers over the lives of the Aboriginal inhabitants of the State, also gave the Governor the right to reserve areas of Crown land for the use of Aborigines. The

Governor was also empowered to order the removal of any unemployed Aborigines to such reserves. Under this Act, the Governor could also declare any town, municipal district, or any other place a 'prohibited area' for any Aborigine not in lawful employment.⁵

At the local level, this negative attitude took the form of further evictions of Aborigines from town areas and calls for reserves to be established out of town, as well as attempts to exclude Aboriginal children from schools.

As Rowley noted, the exclusion of Aboriginal children from Government schools had been occurring since at least 1905, not because of educational policy, but as the result of strong local pressures. The situation concerning schools was symptomatic of the prevailing town situation and of the refusal of local authorities to share common services with Aborigines.⁸ In 1914, the Northampton Road Board 'asked the department to expel all Aboriginal indigents' from the district and in 1915 the Education Department excluded all Aboriginal pupils from the Mullewa school.⁷ Local government authorities and various citizen groups were successful during this time in their lobbying for the exclusion and segregation of Aborigines, which was to result in neglect and inadequate service provision.⁸

But it seems that the tendency for the local citizenry and local authorities to favour segregation and restriction of Aborigines was in part tempered by a degree of opposition to segregation. This opposition was not necessarily voiced out of humanitarian concern for the rights and interests of Aborigines, but seems to have been more concerned with maintaining a cheap labour supply, as well as custom and trade for local businesses.

Changes in local attitudes to the Aboriginal population have been linked to fluctuations in economic conditions. Whereas the relatively depressed economic period up to World War I saw pressure to segregate, restrict and isolate Aborigines, rural expansion during and after World War I required whatever

workers were available, including Aborigines. In these years there was an apparent decline of hard-line racist attitudes. The beginning of economic depression in the 1930s caused local community attitudes to harden again and the situation of the part-Aborigines deteriorated once more.

During the 1930s, almost all communities in the Great Southern district of Western Australia demanded what was virtually a system of apartheid.⁹ A number of town sites banned Aborigines from their streets and part-Aboriginal children were almost entirely excluded from State schools. Segregation was seen as the practical solution to 'the Aboriginal problem', and any policemen who, in their role as protectors, endeavoured to provide campsites or places in schools for local Aboriginal children often faced obstruction from municipalities and pressure groups.

In October 1930, at the prospect of the re-opening of the Carrolup reserve near Katanning, which owners of surrounding properties feared would lower land values in the area,

a deputation from the Road Boards Association of Western Australia asked the Chief Secretary to abandon the scheme in favour of 'district depots' in selected localities where Aboriginal indigents could be kept under constant supervision by local police.¹⁰

Biskup draws attention to the ambivalent attitudes of some local authorities while the re-opening of Carrolup was under discussion. On one hand, they insisted that Aborigines should be kept out of towns; on the other hand they opposed their removal from their districts lest they should lose a cheap source of casual labour.¹¹

In the pre-war years there was a growth in racial prejudice, which manifested itself at the local level in the fields of education and housing. Such prejudice was apparent at a conference in 1939 of representatives of Great Southern Road boards and municipalities. The Government was asked to

permanently segregate all Aborigines in government settlements or, alternatively, to establish Native Boards of Control in all country towns with substantial Aboriginal population and to endow these bodies with practically absolute powers over such matters as distribution of rations and employment. The conferences also resolved that the Native Administration Act should be applied to all coloured people, irrespective of the degree of admixture of Aboriginal blood. Finally, the conference asked the government to prohibit Aborigines from occupying houses in white residential areas, included those exempted from the Act, 'for such fact does not alter the colour of these people' 12

However, during the middle-years of World War II the State Education Department began to take a stand against segregated education for Aboriginal children, with the result that more Aborigines moved into town areas to enable their children to attend school.

Although in the early to mid 1940s many whites in southern country areas still complained of 'the Aboriginal problem' in their district, demands for the removal of Aborigines to reserves ceased. Because of the considerable spending power of the Aboriginal population (an estimated \$3 million in 1947), most local authorities welcomed their presence in towns during business hours, preferring them safely back on reserves after dark. This was the arrangement in York, for instance; in Katanning one day a week was set aside for Aboriginal shopping, and, since there was no train until midnight, they had to obtain a permit to remain in town after dark.¹³

But further north in the State, where the movement of Aborigines to towns had been recent, local demands for segregation continued.

In May 1945 the annual conference of the Murchison Road Boards Association appealed to the Government to declare all townships within its area out of bounds to Aborigines; a few months later the association added a request for separate Aboriginal schools.¹⁴

Race relations continued to be strained in the post-war period particularly in country areas, with local authorities generally wishing to restrict the presence of Aborigines in their communities to those in employment. For instance, in June 1945 the Country Municipal Councils Association asked the Government to confine permanently all unemployed Aborigines to reserves.

In 1946 the Northam Municipal Council, only a few weeks after the Mayor had spoken publicly in favour of citizenship rights for Aborigines, took objection to a departmental suggestion to cancel the declaration of Northam as a prohibited area - a good example of the 'we're all for Aboriginal rights but not in our neighbourhood) attitude, so popular in Western Australia after the war'.¹⁵

Nevertheless, by the 1950s, improvements in educational opportunities began to occur partly as a result of economic conditions and partly as the result of administrative decisions by the Department for Native Welfare. By the 1950s, almost all Aboriginal children in the south west of the State were attending school regularly, despite instances of manipulation of the school bus service to their disadvantage.¹⁶ But further north in the State, Aboriginal children either attended segregated mission schools, or received no formal education at all.

Increased educational opportunities for Aboriginal children were still occasionally set back by the hostility of local reaction. Moves to improve housing conditions were also met on occasion by a racist double standard. Middleton, the Commissioner of Native Affairs, recognised the need for the backing of local authorities if improvements were to be made:

No plan designed to raise the living standards of natives and to improve their status in the white community could succeed without the whole-hearted co-operation, sympathy and support of the white community and particularly the local authorities.¹⁷

But in a number of places, local authorities continued to be reactionary, refusing building permits to Aboriginal families and seeking to place restrictions on Aborigines within their boundaries. For instance, in the country, several municipalities asked to be declared prohibited areas; Geraldton made such a request in 1949, Kalgoorlie in 1950, Mandurah in 1951, and in the following year Mullewa asked the Local Government Department to draft a by-law to prevent Aborigines from remaining in town after dark. The opposition of local authorities forced Middleton to abandon all plans to provide housing for Aborigines within town boundaries and to adopt instead the policy of 'qualified segregation', by which he meant the construction of simple dwellings on reserves, with adequate ablution and sanitary facilities.¹⁸

The prejudice shown by many such local authorities towards Aborigines which resulted in restrictions on their rights was not just confined to rural shire councils. For instance, in Perth, in 1951, the Nedlands Road Board, finding that the spread of metropolitan settlement brought the Aboriginal camp at Swanbourne too close to the eyes and ears of suburban ratepayers, sent in a bulldozer without warning and razed the camp to the ground.¹⁸

In the early 1950s, a change of government, changes to Aboriginal policy and improved economic conditions brought some amelioration in the situation of Aborigines in the State. Significantly, in 1954, the last of the 'prohibited areas' was cancelled, including the city of Perth from which Aborigines had been officially excluded since 1927." But despite such changes, Aborigines who moved from the country to the metropolitan area were to continue to confront prejudice and obstruction from local authorities. As fringe dwellers, they inhabited scattered camps on the eastern edge of the metropolitan area, and no adequate provision for housing was made for them. Their living conditions and life style antagonised local ratepayers to such an extent that 'suburban municipalities consistently rejected all schemes to establish an Aboriginal reserve where housing and hygienic facilities

might be provided'.²¹ It was not until 1957 that the Department of Native Welfare obtained repossession of Allawah Grove, a former Aboriginal reserve at South Guildford, for the establishment of an Aboriginal housing community.

2.3 More recent aspects of Aboriginal-local government interaction

During the 1960s and 1970s, complaints continued to be heard from local ratepayers about Aboriginal fringe-dwellers in the Swan Valley. Problems between fringe-dwelling Aborigines and ratepayers in the West Swan Ward of the Swan Shire Council had emerged in 1976, and in a newspaper article in 1977 headed 'Council: Move Aborigines' it was reported that the Anglican church in Guildford had been served notices from the Swan Shire Council to remove an Aboriginal tent village from its land because of infringements of health, town planning and local government regulations.²² The President of the Shire Council was reported as saying that the Council wanted to maintain control under its by-laws, that some Guildford people had complained about Aborigines living in the park, but that the shire was not responsible for providing housing. In an article a few days later the Shire President indicated that the Council was trying to find an alternative site for homeless Aborigines, '...he hoped a proper village could be established for them in the future' where they would want to live and at the same time conform with the Shire's by-laws. 'He envisaged a well-organised village with a shop, transport and properly organised rubbish disposal.' One councillor was reported as saying that 'the Council had helped the Aborigines more than anyone else'.²³ Yet after the State Minister for Community Welfare announced plans some two weeks later for a temporary camp with with basic facilities in the shire (near Lockridge), the Council opposed the plan. A petition signed by more than 1000 Lockridge residents opposed the camp and asked for temporary facilities to be made at Guildford. At this stage, the Federal Minister for Aboriginal Affairs called on the State Government and the Swan Shire Council to act

quickly to solve the problem of homeless Aborigines and urged setting up the proposed Lockridge camp as an immediate step.²⁴

A few days later, another site for a temporary camp in the area was being considered by the Minister for Community Welfare and nearly two weeks later Aborigines began moving to the new location despite a Swan Shire Council meeting which postponed a decision to allow the move to take place. The Council wanted to call an electors meeting on the issue before any decision about an Aboriginal tent camp at Lockridge was made, but Aborigines indicated that the time for waiting was over.²⁵

About a month later, while the Swan Shire Council was reported to be investigating a proposal to house Aborigines in three nissen huts at a railways estate²⁵, the electors meeting was held. At the meeting hall, council officials were only admitting people whose names appeared on the Swan Shire electoral roll and it appeared that the dozen Aborigines who arrived for the meeting would not be allowed in. The procedure for allowing in those whose names appeared on the roll would have meant that about fifty white people would have also had to be refused entry. So, non-electors were admitted to the meeting as long as they stood at the back of the hall and did not speak. The Shire President reportedly told the meeting that the Council had not wanted the camp and was now powerless to move it because the State Government had intervened. Ratepayers were concerned about possible decline in property values and the presence of 'drunken Aborigines'. One Aboriginal attending the meeting said afterwards: 'it is a big joke allowing only house owners to speak about our problems. Few Aborigines own houses. If they will not let the camp dwellers speak how can they really know?'

About six months later, early in 1978, the Swan Shire was still being obstructive on the issue of Aboriginal housing in the area. Two councillors moved to have Council approve the construction of four more homes for the Aboriginal Lands Trust in West Swan, but the move failed to get Council approval.²⁷ A

short time later, it was reported that the Swan Shire Council was to write and ask owners of land surrounding the Upper Swan Bridge to stop the area from being used as an Aboriginal camp site. 28

The controversy over Aboriginal housing continued to involve the Swan Shire Council. As the Shire President put it 'The Aboriginal people want more homes in Saunders Street and the local electors do not'.²⁸

In the late 1970s housing for Aborigines continued to be one of the main topics reported in the West Australian press involving local governments and Aborigines. The Carnarvon situation is a further example. The Shire Council had refused in the mid 1960s to make land available to the then Department of Native Welfare for Aboriginal housing. Housing in Carnarvon was at that time a problem for many people, Aboriginal and non-Aboriginal alike.³⁰ The housing issue for Aborigines came to a head again in May 1978 when the Shire Council declared the Reserve dwellings as unfit for human habitation and put up notices on all Reserve camping areas, giving Aboriginal people and the State's Department of Community Welfare a limited time to improve their housing and living conditions or get out. The Council threatened to demolish sub-standard housing on the town's Reserve and other Aboriginal camping areas. This threat of legal action was deferred after the setting up of a Shire Aboriginal Housing Committee which would look into the Aboriginal housing problem in Carnarvon. The Committee, it should be noted, consisted entirely of non-Aboriginal people - representatives of council and government departments. In response to a suggestion that Aboriginal people ought to be on the committee, the Shire Clerk was reported as saying that the 'DAA could represent the Aboriginal people as their inclusion would make the committee unwieldy' 31

The then Federal Minister for Aboriginal Affairs, Senator Chaney (and his predecessor, Mr Viner) both became involved in comment on the Aboriginal housing problem in Carnarvon.³² In a

letter to the Shire of Carnarvon, Senator Chaney was reported as criticising the Council over its attitude to Aboriginal fringe dwellers. His letter was referring to the Council decision in August 1979 to proceed with its earlier threat to serve summonses on illegal squatters and to proceed with condemnation orders on the reserve and on dwellings in the Boor Street area. The Minister wrote

...I find the proposed action most discouraging and negative at a time when State and Commonwealth authorities, and, I thought the Shire of Carnarvon, were making every effort to alleviate the housing situation in Carnarvon.

His view was that the demolition of a makeshift camp would only shift the camping problem to a new location. Eviction was again forestalled as representatives from the Departments of Aboriginal Affairs, and Community Welfare, the State Housing Commission and the Carnarvon Shire Council sought to negotiate a solution to the housing problem.

The flooding of the Gascoyne River in June 1980 brought the Aboriginal housing problem in Carnarvon into urgent focus. The reserve dwellings were extensively damaged in the floods and a temporary tent camp was set up while a decision was made on permanent accommodation. Despite a petition which circulated in East Carnarvon to have the Aboriginal people moved from the tents, the camp continued for almost a year. By the end of 1980, plans were announced for an Aboriginal housing development in the Boor Street area to be constructed with funding from DAA and, despite further delays, this was completed in 1981.

At approximately the same time, another aspect of the Aboriginal housing problem was reported in Carnarvon. The State Housing Commission's plans to build twelve homes in the town of Carnarvon for Aborigines (with funding from DAA) were jeopardised because of the problem of finding sufficient building blocks. The problem resulted mainly from the Shire's 'pepper and salt' policy for Aboriginal housing in town, that is, one Aboriginal house to four general rental houses. The

Shire was reported to be insisting on this requirement which meant a reduction in the number of houses being built for Aboriginal tenants, even though blocks were available.³³ The National Aboriginal Conference representative for the area was reported as saying that

...the problem appeared to be not so much the shortage of land as the shire's determination to stop Aboriginal people living together, though it seemed to be all right for them to do so on the Reserve or in Boor Street.³⁴

Another example of housing difficulties for Aborigines in a local municipality was reported more recently from Geraldton. In 1981, the Aboriginal Boomerang Council applied to the Geraldton Town Council for planning permission to build an Aboriginal pensioner complex on Reserve land at Sunset Beach in Geraldton. Permission was refused and the Council cited the 'number and nature of the objections received' and its opinion that the development would 'adversely affect the character of the adjoining land' as reasons for its decision.³⁵ The Aboriginal Boomerang Council believed that opposition from local residents in what is a prime residential area of Geraldton was 'purely racist'. The Aboriginal Boomerang Council appealed against the Council's decision and won the appeal. By mid 1984, funding from appropriate Government departments was assured and plans were re-submitted for Council approval. In order to gain Council support, the original plans were amended to omit a community hall.

The topic of housing also provided the following headlines for a newspaper article late in 1984 'Town says no to Mum: call to get out'.³⁶ Mullawa locals were reported to have protested through their Shire Council about the location of an Aboriginal family in the town. In another newspaper article, Coolgardie residents were reportedly in an uproar because a group of Aboriginal fringe dwellers had settled in the town. 'Irate people in Coolgardie have called on the Shire Council to either move the Aborigines or designate an area in which they can stay.'³⁷

Apart from the specific issue of Aboriginal fringe dwellers and housing in local municipalities, reports of problems in race relations in local shires and towns still occur. For example, in addition to incidents which had occurred in earlier years, it was noted that in the 1970s reports of racial tension were increasing in frequency. This increase in racial disharmony was linked by some to a white backlash against increased federal spending on Aboriginal people.

There were reports of this resentment in Onslow in 1973 by the Shire Clerk of the West Pilbara, in Broome by the local magistrate, in the Kimberleys by the Regional Director of Public Health and in evidence given to a Royal Commission into Aboriginal affairs in Western Australia. Late in 1974 and into 1975, tensions had not eased, with Wiluna having an unofficial curfew imposed on its Aboriginal inhabitants because of drunkenness and violence, and a clash occurring between police and Aborigines at Skull Creek. Liquor was also one of the reasons for continuing racial problems reported from Collie, Moora and Perth.³⁸

In 1978, Aborigines in Carnarvon were reported to have been offended by remarks made by the Shire President. In the Carnarvon Aboriginal Newsletter (June 1978), Aborigines complained about being 'rubbished' by the Shire President, who had stated publicly that

Aborigines live for is liquor and on pension days the streets of Carnarvon are crowded with Aborigines waiting for their cheques...so that they can cash them to buy beer.

In addition, the Shire President suggested that local Aborigines had it too easy compared with whites in the provision of school buses. The Aboriginal people called for a meeting with the Shire Councillors and President to 'show that most of us Aborigines and coloured people are proud of how hard we are trying and to show that we won't be rubbished by...anyone...'.³⁸

Whereas it might be maintained that local authorities have treated Aborigines within their districts in a lenient fashion by turning a blind eye to sub-standard housing and other facilities on reserves and in camping and transient areas and by not enforcing local government by-laws, this has only tended to be the case as long as the land occupied by Aborigines was not required for any particular shire purposes and as long as the dwellings were well out of sight. Recent changes in the legal status of some reserves in the State, the development of more uniform standards for Aboriginal housing as well as growing Aboriginal political awareness have meant that some local government authorities such as the ones referred to have been obliged to become increasingly involved in issues such as housing for Aboriginal people within their communities.

This chapter has described how in many local authority areas in Western Australia since the turn of the century, the Aboriginal population has at best been ignored or neglected and at worst segregated, excluded and restricted. Aborigines have been treated as marginal people in every sense of the word and as a result have rarely had the opportunity or inclination to participate in local government affairs. The next chapter considers in more detail socio-economic and demographic factors in the study region which can also be seen to have contributed to relatively low levels of Aboriginal-local government interaction and limited Aboriginal participation in local government affairs.

CHAPTER 2 ENDNOTES

1. C. D. Rowley, *The destruction of Aboriginal society*, Penguin, 1974 p.362.
2. Australia, House of Representatives Standing Committee on Aboriginal Affairs, *Strategies to help overcome the problems of Aboriginal town camps*, 1982. It should also be noted that the reports of both the Committee of Inquiry into Aboriginal Employment and Training Programs (the Miller Report) and the National Inquiry into Local Government Finance (the Self Report) recommend that there be a review of the adequacy of local government's handling of Aboriginals. As the latter report noted (p.336)

We consider that such a review is desirable and warranted in the light of the significance of local government in the delivery of public goods and services to the Australian community, [and] the evident problems in ensuring that Aboriginals have fair and equitable access to local government decision-making and services...
3. This section draws heavily on Biskup's work *Not slaves not citizens* as this constitutes the main published source on Aboriginal policy and practice in Western Australia from 1898 to 1954. Additional material is drawn from Bolton (1981) and Rowley *Outcasts in white Australia, The remote Aborigines, and The destruction of Aboriginal Australia*. Time constraints precluded more detailed archival research which could have located additional material relating specifically to the study region.
4. P. Biskup, *Not slaves not citizens*, University of Queensland Press, St Lucia, 1973, p.146.
5. *ibid.*, p.64.
6. C. D. Rowley, *Outcasts in white Australia*, Penguin, Harmondsworth, 1971, p.97.
7. Biskup *op.cit.*, p.154.
8. *ibid.*, p.79.
9. G. C. Bolton, 'Black and white after 1897', in T. Stannage, (ed.), *A new history of Western Australia*, UWA Press, 1981, p.149.
10. Biskup, *op.cit.*, p.164.
11. *ibid.*, p.165.

12. *ibid.*, p.191.
13. *ibid.*, pp.203-4.
14. *ibid.*, p.204.
15. *ibid.*, p.223.
16. *ibid.*, p.243.
17. Middleton quoted in Biskup, *op.cit.*, p.245.
18. *ibid.*, p.246.
19. Bolton *op.cit.*, p.155.
20. Biskup, *op.cit.*, p.256 (footnote) points out that the prohibition announced in the Government Gazette of 18 March 1927

originally covered the whole of the city of Perth but the area was reduced in 1948 to the inner city bounded by the Swan River and Milligan, Newcastle and Bennett streets, with a view to strict enforcement of the prohibition.
21. Bolton *op.cit.*, p.161.
22. *West Australian* (5 May 1977).
23. *ibid.* (10 May 1977).
24. *ibid.* (30 May 1977).
25. *ibid.* (14 June 1977).
26. *ibid.* (14 July 1977).
27. *ibid.* (12 January 1978).
28. *ibid.* (19 January 1978).
29. *ibid.* (26 January 1978).
30. C. D. Rowley, *The remote Aborigines*, ANU Press, Canberra, 1971, p.75.
31. *West Australian*, 24 October 1978.
32. 'Viner: Aborigines in desperate need' *West Australian* (23 July 1979); 'Carnarvon Aborigines: Chaney raps council' *West Australian* (25 September 1979).
33. *West Australian* (20 February 1979) and (27 November 1979).
34. *ibid.* (8 May 1980).

35. *Geraldton Guardian* (13 July 1984).
36. *Sunday Independent* (30 September 1984).
37. *West Australian* (1 December 1984).
38. Bolton, *op.cit.*, pp.173-4.
39. *Carmarvon Aboriginal Newsletter*, June 1978.

CHAPTER 3 THE STUDY REGION

The aim of this chapter is threefold. First, to provide a more specific rationale for the choice of the study region and to provide a general description of some of the main structural characteristics of the local government authorities within it. Second, to provide an overall socio-economic description of the study region and of each local government authority, and, third, to provide a description of the main demographic characteristics of the study region and to consider some interrelationships with socio-economic characteristics. All of these considerations are relevant to the explanation of political participation in the study region. In particular, it is indicated that the various structural features of the study region tend to militate against Aboriginal political participation at the local government level.

3.1 Rationale and general description

In addition to the general rationale outlined in the preface, the twenty-five local government authorities (LGAs) which make up the study area *Map /*) were chosen for more detailed fieldwork and analysis for three principal reasons:

1. They exhibit a wide range in terms of the percentage Aboriginal population of each LGA - from zero in Chapman Valley to 83.3 per cent in Wiluna in 1981. This diversity in terms of percentage Aboriginal population allows some intra-regional comparison to be made of the variations in political participation in different local government contexts. For example, given equal access to the political process, one might expect the degree of Aboriginal participation in it to be higher than expected in those LGAs containing above average percentages of Aborigines. Similarly, one might expect a significantly lower degree of Aboriginal political participation in

those LGAs containing significantly below average percentages of Aborigines⁰¹

A second reason for concentrating on the twenty-five LGAs in the study region is that their average percentage of Aboriginal population is significantly higher than that for the whole of Western Australia. In 1981, there were 31 351 Aborigines in Western Australia, or 2.5 per cent of the total population of the State. The twenty-five LGAs in the study region, on the other hand, contained on average 13 per cent Aborigines. Clearly, Aboriginal political participation takes on a greater political significance in regions with a significantly above average percentage of Aborigines since the demand for equality of access to political power is potentially much higher.

3. A third reason for the choice of study region is that collectively the twenty-five LGAs closely correspond to one of the districts already designed to encourage greater Aboriginal political participation - the WA NAC Area D. Despite recent comment to the contrary², this correspondence allows for the possibility of making comparative statements about participation at different levels.

On the basis of the total population as at 30 June 1983, the twenty-five LGAs can be arranged into four groups:

- *small*: where the total population is less than half the average of 2870 for the study region;
- *average*: where the population falls between 2000 and 5000;
- *above average*: where the population is between 5000 and 10 000; and
- *large*: with a population close to 20 000.

The largest group of LGAs (15) is in the small category, with six in the average category, three in the above average category and one in the large category (Table 3.1). The population of the LGAs in the study region ranges from Geraldton with 19 610 in 1983, to Sandstone with 150. Clearly, the low population of many LGAs in the study region makes the provision of essential services problematic since locally-derived revenues from rates are likely to be relatively small. Although there is no statistically significant relationship between the population size of the LGAs and percentage Aboriginals, this is potentially problematic from an Aboriginal viewpoint since six of the nine LGAs which contain 10 per cent or more Aborigines are in the 'small' category - Cue, Meekatharra, Murchison, Shark Bay, Upper Gascoyne and Yalgoo.

Table 3.1 LGA categories in the study region
(by population size 1983)

<u>Small</u>	<u>Average</u>
Carnamah	Exmouth
Chapman Valley	Greenough
Coorow	Irwin
Cue	Mullewa
Meekatharra	Northampton
Mingenew	Wiluna
Morawa	
Mount Magnet	<u>Above Average</u>
Murchison	
Perenjori	Carnarvon
Sandstone	East Pilbara
Shark Bay	West Pilbara
Three Springs	
Upper Gascoyne	<u>Large</u>
Yalgoo	Geraldton

All LGAs are Shires, except Geraldton, which is a town.

Whereas LGA size and its relation to service provision is a problem from the viewpoint of population, it is also a problem

from the viewpoint of area. The average area of an LGA in Western Australia is 2730 square kilometers. However, the average for the study region is 49 386 square kilometers, with an enormous range from 28.3 sq kms in Geraldton to 377 647 sq kms in East Pilbara and 330 429 sq kms in Wiluna. It is likely that the sheer size of the LGAs in the study region contributes greatly to the cost of providing infrastructure and essential services. This is also-potentially problematic from the perspective of meeting Aboriginal needs, since there is a general tendency for larger Aboriginal concentrations to occur in the larger (in area) LGAs, with West Pilbara, Mullewa and Cue being notable exceptions for the study region.

As far as the LGAs in the study region are concerned, the combination of small population, large area and a relatively high percentage of Aborigines makes the expression of Aboriginal needs via the local government system especially important since indigenous resources are small and costs are high. This is especially true for the Shires of Meekatharra, Murchison and Upper Gascoyne.

In order to summarise the main features of the settlement structure of LGAs in Australia, the Advisory Council for Inter-Government Relations has adopted a broad six-fold hierarchical classification scheme - developed metropolitan, fringe metropolitan, provincial city, small city, rural town and rural.³ This classification scheme has been applied to all Western Australian LGA5.⁴ For the study region, the majority of LGAs (19) fall into the 'rural' category - that is, an authority whose largest urban population component lives in a centre with a population less than 1000. Of the remainder, five are in the 'rural town' category (Carnarvon, East Pilbara, Exmouth, Greenough and West Pilbara) - that is, an authority whose largest urban population component lives in a centre with a population in the range 1000-9999. The remaining LGA, Geraldton, is classified as a 'small city' - that is, it is an authority whose largest urban population component lives in a non metropolitan centre with a population in the range 10 000-24 999. These characteristics of the

settlement structure of the study region are important for this research, since it has been shown that, in general, rural residents tend to participate less in the political process than non-rural residents.⁵

3.2 Socio-economic description

One of the means by which the socio-economic structure of any region can be described is via a series of social and economic indicators, some of which can be taken from the census.⁸ In the Australian context, twenty-two variables from the 1971 Census describing various aspects of standard of living at the local government level have been subjected to a principal components analysis. Non-metropolitan LGAs were then grouped on the basis of their scores on each of three components - rural-urban, social deprivation and age or newness.⁷ Of the eight major groupings, the most striking areal extent of LGAs identified as 'extremely poor' and 'socially deprived' occurred in Western Australia, especially in the northern part of the State.⁸

For the present study region, two LGAs were classified as 'extremely poor' based on 1971 data - Murchison and Wiluna.⁹ Census variables which comprised the poverty or social deprivation component include a lack of schooling, low car ownership and a high percentage of dwellings without a bathroom, electricity or *gas*.¹⁰ The mapped scores on this component for the study region indicate that both Murchison and Wiluna are among the most socially deprived LGAs in Australia.¹¹ In other words, these two Shires have the highest degree of social and economic need in the entire federation! Other shires with a relatively high need measured on this basis include Cue, East Pilbara and Yalgoo.

A range of indicators has been used to describe socio-economic status (SES), especially income, education and occupation, which have been shown to be highly intercorrelated dimensions of objective SES.¹² These indicators can be derived from the census and used as a means of describing the aggregate SES of

LGAs in the study region. This is potentially important from the point of view of Aboriginal political participation since it has long been recognised that higher status groups and regions tend to participate more than low status groups and regions.¹³

Income

Two indicators were taken from the 1981 Census to measure geographical inequalities in the distribution of income among the twenty-five LGAs in the study region - low income (individual income below \$8000 per annum) and above average income (individual income greater than \$15 000 per annum). The rationale behind this choice is that low income is generally associated with low levels of political participation, and above average income is generally associated with higher levels of participation.¹⁴

The average percentage by LGA for 'low income' was 51.9 per cent, which is slightly below the figure for the whole of Western Australia (Appendix 2). However, there was a wide range from 32.5 per cent in East Pilbara to 80.6 per cent in Wiluna. West Pilbara also had a significantly below average figure (33.4 per cent), and Sandstone (64.1 per cent) was significantly above average.

For 'above average income', the mean percentage was 15.4 for the study region, which was slightly higher than that for the whole of WA (Appendix 2). One reason for this was the high percentage figures in West Pilbara (40.2 per cent) and East Pilbara (35.6 per cent). Both Murchison (4.2%) and Wiluna (5.1%) had significantly below average figures.

In general, both income indicators confirm the relatively low *SES* of the Shires of Murchison and Wiluna.

Education

For education, four indicators were chosen from the 1981 Census: percentage of the workforce who had never attended school; percentage with no qualifications; percent technical;

and percent tertiary qualifications. Higher educational status tends to be associated with higher levels of political participation and low levels of education tend to be associated with lower levels of political participation.¹⁵

The average percentage of those never attending school for the twenty-five LGAs was 3.3 per cent, significantly higher than the percentage for the whole State. However, within the study region there was a considerable range from zero in Three Springs to 33.1 per cent in Wiluna. Murchison (6.8%) and Yalgoo (6.1%) were also significantly above average (Appendix II, *Table 1*).

The average percentage for no qualifications (70.7%) is also higher than the percentage for the whole State (64.4%). The range is from 57.7 per cent in Exmouth to 87.7 per cent in Wiluna. Both Murchison (83.1%) and Chapman Valley (80.3%) also have significantly above average figures.

For technical qualifications the study region average (17.0%) is below that for WA (21.3%). Two LGAs in particular have significantly below average figures - Murchison (5.6%) and Wiluna (6.5%). Others, especially West Pilbara (28.2%) and East Pilbara (24.3%) have above average figures (Appendix II, *Table 2*).

The average figure for tertiary qualifications (2.3%) is also below that for the State (3.9%). Several LGAs also have well below the study region average. For example, Mingenew (0.4%), Chapman Valley (0.8%), Coorow (0.8%), Perenjori (0.8%) and Wiluna (0.8%). Yalgoo (4.8%), on the other hand, has a figure which is more than twice the study region average (Appendix II, *Table 2*).

As with the two income indicators, the four indicators for education taken together also confirm the relatively low SES of the Shires of Murchison and Wiluna.

Occupation

Occupational status, like education, has also been shown to correlate highly with political participation.¹⁸ Furthermore, the percentage of the workforce in employment is one indicator of economic participation. As was noted earlier, economic participation is in turn associated with political participation especially in traditional indigenous societies.¹⁷

The average percentage of the labour force actually in employment in the study region (48.8%) is higher than that for WA (43.5%). Several LGAs, however, had significantly below average levels of economic participation - for example, Cue (39.8%), Geraldton (39.5%) and Mullewa (39.1%). Murchison (61.5%) and Yalgoo (58.4%) had above average figures (Appendix II, *Table 2*).

The source of employment in every LGA except Exmouth is predominantly in the private sector. Indeed, the study region average (74.6%) is higher than that for WA (70.3%). However, there is a large intra-regional range from 37.2 per cent in Exmouth to 88.1 per cent in Murchison (Appendix II, *Table 3*).

Average employment by the Federal or State Government (14.1%) is below the WA figure (22.9%) and ranges from zero in Murchison to 51.7 per cent in Exmouth. Meekatharra (27%) also has a significantly above average figure (Appendix II, *Table 3*).

The average employment by local governments (3.5%) is higher than that for WA (1.5%) ranging from 0.7 percent in East Pilbara to 13.1 per cent in Sandstone. Cue (9.9%) also has an above average figure (Appendix II, *Table 3*).

Unemployment has been shown to be associated with lower levels of political participation in Western Australia¹⁸. For the study region, the average level of unemployment by LGA (2.1%) was lower than the figure for WA (2.9%). Some LGAs, however, had above average levels such as Carnarvon (3.7%), Cue (3.5%),

Geraldton (3.7%), Meekatharra (5%) and Yalgoo (3.5%) (Appendix II, *Table 4*). For Australia as a whole, Aboriginal unemployment is virtually four times that for the total population.-⁹

As far as occupational status is concerned, it is clear that in general the study region had a much greater percentage of the workforce engaged in farming, fishing and mining (that is, primary activities), and a much lower percentage of the workforce engaged in professional and white collar occupations than WA as a whole (Appendix II, *Table 4*). This is important from the point of view of political participation since professional and white collar groups tend to participate more, and miners have also been shown to exhibit higher electoral turnouts.²⁰ However, the very great difference in the higher status occupational categories for the study region means that its overall occupational structure is conducive to relatively low levels of political participation. Furthermore, geographical variations in participation levels among the twenty-five LGAs may be partially explained by differing concentrations of occupational categories.

From a sociological perspective, one might expect that political participation would be generally lower in those LGAs with below average percentages of professional and white collar workers and miners. Lower participation would also be expected in those LGAs with above average percentages of unskilled workers.

For professional and white collar workers (average for the study region is 26.5%), lower levels of participation would therefore be expected in Murchison (with 6.3%) as well as in Chapman Valley (15.2%), Mingenew (13.8%), Perenjori (11.9%), Upper Gascoyne (15.6%) and Wiluna (14.2%) (Appendix II, *Table 4*).

This expectation would be reinforced if the same LGAs possessed significantly below average percentages of miners. This is the case for Chapman Valley (0.5%), Mingenew (zero), Perenjori (2.1%) and Wiluna (2.1%). In addition, Morawa

(zero) and Mullewa (zero) have below average figures (Appendix II, *Table 5*).

The expectation would be further reinforced if the LGAs with well below average percentages of professional and white collar workers and miners also had above average percentages of labourers. The only LGA in which this occurs across all three occupational categories is Wiluna (39.9% labourers).

3.3 Demographic characteristics

The region is remarkable for the variation in the percentage of Aborigines in the total population in each LGA, and this was, in part, the reason for its selection for detailed study. In this section, I examine this population issue and make some preliminary aggregate assessment of the extent to which the objectively-defined socio-economic structure of the twenty-five LGAs is conducive to Aboriginal political participation.

Although the percentage of Aborigines who live in some LGAs in the study region is very low - for example, Chapman Valley (zero) and Three Springs (0.2%), the LGA average is 13 per cent, or more than five times the WA figure (Appendix II, *Table 4*). There are nine LGAs which contain 10 per cent or more Aboriginal population - Wiluna (83.3%), Mullewa (29.4%), Murchison (29.1%), Meekatharra (29%), Cue (26.8%), Yalgoo (25.1%), Upper Gascoyne (19.1%), Carnarvon (15.7%) and Shark Bay (9.5%).

The extent to which the socio-economic structure of the LGAs in the study region is conducive to Aboriginal political participation can be examined in at least two ways using aggregate census data. First, aggregate correlations can be calculated for the whole of the study region between the variation in the percentage of Aborigines and those socio-economic variables described above which have been found to statistically 'explain' variations in political participation. Second, a more detailed social structural

analysis can be made of those LGAs which have at least 10 per cent resident Aborigines, in order to highlight those characteristics which are of particular and local relevance to Aboriginal political participation.

The results of the aggregate correlation analysis show a consistent pattern in terms of its implications for Aboriginal political participation (*Table 3.2*). That is, the four correlations which are statistically significant indicate a propensity for lower political participation. For example, a negative association (-0.46) was found between the variations in the percentage of Aborigines and those with above average incomes. As noted above, previous research has indicated that those with higher incomes are likely to participate more.

This correlation implies that Aborigines are likely to participate less, and this is also the implication of the non-significant positive correlation between Aborigines and low income (0.34).

The aggregate correlation analysis also implies that many Aborigines have never attended school (0.91). Again, as was mentioned earlier, higher levels of education are conducive to higher levels of political participation. The implication of this correlation, therefore, is that Aborigines in the study region are likely to participate less.

The only occupational status variable significantly associated with variations in percentage Aborigines was labouring (0.43). Given the well-known relationship between low participation and unskilled workers, the implication of this correlation is also clear. This is supported in part by the non-significant correlation with percent of the workforce in employment (-0.22). That is, there is a slight tendency for economic participation to be lower in those LGAs with higher percentages of Aborigines. The lower level of Aboriginal economic participation will tend to reinforce lower levels of political participation which are associated with other socio-economic variables (*Table 3.2*).

Table 3.2 Spearman correlations between Aborigines and SES indicators by LGA

1.	low income	0.34*
2.	above average income	-0.46*
3.	never attended school	0.91*
4.	tertiary qualifications	0.25
5.	employed	-0.22
6.	professional and white collar	0.01
7.	mining	0.27
8.	labourers	0.43*

significant at the 0.05 level

In order to look more closely at the implications of the above associations for Aboriginal political participation at the local government level, the rank orderings on each of the chosen socio-economic variables were compared for those shires containing at least 10 per cent resident Aborigines (*Table 3.3*). The table indicates whether the position in the rank order in the study region is conducive to an increase or a reduction in Aboriginal political participation. This is indicated for the upper quartile (ranks 1-6) or the lower quartile (ranks 19-25), depending on the nature of each variable.

It is generally clear that as the percentage of Aborigines increases in the sample LGAs so does the number of variables whose respective rank orderings are conducive to a reduction in Aboriginal political participation. Similarly, as the

percentage of Aborigines in these LGAs decreases, so does the number of variables whose respective rank orderings are conducive to a reduction in participation. Furthermore, as the percentage of Aborigines decreases there is a greater likelihood of the rank orderings of certain variables to be conducive to higher levels of political participation. For Wiluna, for example, seven of the eight variables are conducive to lower Aboriginal political participation. Shark Bay, on the other hand, has no SES variables which are especially conducive to lower participation and has three whose rank ordering is conducive to higher participation (*Table 3.3*).

4.3 Summary and implications

It is one thing to conclude that the socio-economic structure of the twenty-five LGAs in the study region is conducive to lower levels of local government participation by Aborigines. It is quite another thing to explain why certain socio-economic structures or socio-economic variables tend to operate to that end, at the scale of the Aboriginal community or the individual Aboriginal.

It is not unreasonable in the context of the present inquiry to draw parallels between the participation levels of Aborigines and those of indigenous groups in developing societies. Indeed, the age structure of the Aboriginal population is typical of that of developing nations.²¹ Given the 'extremely poor' socio-economic structure of some LGAs in the study region, and given the relatively low SES of Aborigines in the region, then the literature on participation in the developing world can lend some insight into some of the likely causes of low levels of Aboriginal political participation. For example, in developing countries the poor usually take little part in politics since the political system is seen to be irrelevant to their main concerns or is seen to be futile. Several reasons have been given for this low sense of efficacy.²² First, the poor lack the necessary

Table 3,1 - Rank Order of Aborigines and SES Indicators

	Aborigines	Low Income	(Shires with at least 10% Aborigines)					Labourers	
			0	0	0	0	0		
			as	as	as	as	as		
			CD	W	L. H	0	0		
			U)	'o —i	as 4.	0	W	bD	
			> 0	CD CD 0	HH	0	4)	0	
			00	> .nc	cd	O P. H	H	H	
			Z	CO	(D	HO			
WILUNA	1	1*	24*	1*	24*	20*	22*	17	1*
MULLEWA	2	8	23*	8	15	25*	9	25*	16
MURCHISON	3	15	25*	2*	20*	1x	25*	15	4
MEEKATHARRA	4	18	4x	4*	6x	16	4x	7	11
CUE	5	3*	16	6*	2x	23*	5x	6x	2*
YALGOO	6	11	11	3*	1x	2x	17	4x	5*
UPPER GASCOYNE	7	7	21*	7	5x	7	20*	10	25x

CARNARVON	8	6*	17	9	12	22*	1x	13	8
SHARK BAY	9	14	13	12	9	15	6x	5x	23x

expected reduction in Aboriginal political participation
 x expected increase in Aboriginal political participation

resources for effective political participation. Second, low income groups may well be divided by tribe, religion, language or in some other way. Third, the poor tend to expect their requests to be ignored.

These reasons may well be equally relevant to Aboriginal political participation, not just in the study region, but in the rest of the Australian political system. However, even though political-structural and legal mechanisms might be introduced in order to encourage Aboriginal participation, the basic issue of economic discrimination also has to be addressed in order that such mechanisms might be made to operate more effectively.

CHAPTER 3 ENDNOTES

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CHAPTER 4 LOCAL GOVERNMENT SERVICES AND RESOURCES

This chapter has four main aims. Firstly, to provide a brief overview of the functions of local government in Australia and particularly in Western Australia. Secondly, to outline some of the main sources of local government revenues. Thirdly, to consider the implications for the Aboriginal population of local government expenditures and revenues for the twenty-five LGAs in the study region. Finally, to consider some of the Aboriginal expectations and experiences of local government services and resources in the study region. The overall argument of the chapter is that local government expenditure patterns are unlikely to have any significant impact on Aboriginal social well-being until Aborigines themselves become more involved in the resource allocation process.

4.1, They functions of local government

One of the important ingredients in the history of local government in the western world over the past 25 years has been the tension between two fundamental functions of local government. This tension involves the issue of

'representation' or 'local democracy' on the one hand, and service delivery on the other. The tension between these two functions emerges in the requirements needed to maximise the implementation of each of them. That is, in the ideal case, the maximisation of the function of representation generally requires the adoption of smaller units and of units based on the concept of community of interest.- On the other hand, to maximise the efficiency of service delivery generally requires larger units which are not territorially fragmented.²

Any evaluation of local government units would necessarily address itself to the extent to which those units are able to permit the expression of local democracy. In particular, it would be concerned with the question of whether local government authorities function in order to maximise the

opportunity to articulate citizen demands. For example, is there a just system of local government representation? What is the extent of citizen support for local government? These questions lead into the general issues of whether local government services are in fact meeting local needs, and whether the allocation of local government resources is territorially just. Territorial justice has been defined as 'to each area according to the needs of the population of that area'.³

The extent to which local government fulfils its functions depends in part on the nature of its relationship with other (higher) levels of the political hierarchy.⁴ In the Australian context, local government was created by and is under the jurisdiction of the states.⁵ Traditionally, it has been seen by the states largely as a means for providing certain essential services, including amenities and infrastructure.⁶ In Western Australia, the largest proportion of local government expenditure tends to be on road construction and maintenance reflecting in part the historical significance of the Lower Roads Boards. In 1982-3, for example, more than \$134 million was spent on roads, or 38 per cent of the total local government outlay in W.A. of \$348.8 million. Recreation and culture, on the other hand, consumed \$70.8 million or 20 per cent of the total. Next come 'general public service' with \$45.2 million or 13 per cent, and garbage collection with \$32.7 million or 9.4 per cent of total outlays.⁷

Services such as community amenities and recreation are part of a range of services which in some way affect the social well-being or 'life chances' of individual recipients.⁸ Others include law and order, education, social security and welfare.⁸

In Western Australia, concern has been expressed over the inadequate delineation of the responsibilities of local government in terms of welfare provision. The most appropriate role for local government in this area still requires clear definition and is the subject of ongoing debate

and discussion)-⁰ However, in recent years, the overall priority attached to welfare by LGAs in W.A. appears to have increased. For example, for 1976-7, welfare comprised 0.89 per cent of LGA outlays. The most recent data (1982-3) indicate that 1.61 per cent of total outlays was spent on welfare which is significantly above the average for the period 1976-82 of 1.28 per cent. This is important since the percentage of total LGA outlays on 'life chance categories in WA, excluding recreation - law and order, education, health and welfare - has actually declined over the same time period from 6.17 per cent in 1976-7 to 5.33 per cent in 1982-3. For the study region, however, only one LGA (Geraldton) spent anything on welfare in 1982-3.--

4.2 Local government resources.

Naturally, the ability of local government to influence the social well-being of its inhabitants will be closely related to the resources at its disposal. Apart from resources, however, the relative explanatory importance of need and political variables is likely to vary among WAs.¹² As has been pointed out, in the Australian Federation there is a jurisdictional imbalance between the responsibility for certain policies and the resources to implement those policies. For example, in 1975-6, the Federal Government obtained 79.4 per cent of the national revenue from taxes and spent 15.9 per cent of national expenditure on life chances)-³' The States, on the other hand, collected 16.3 per cent of national revenue from taxes, yet spent 78.8 per cent of national expenditure on life chances. Local government, however, collected only 4.3 per cent of national revenue from taxes in 1975-6 and spent 5.3 per cent of national expenditure on life chances. Clearly, the Federal Government has the money, the States have the constitutional jurisdiction, while local governments are closest to the problems.

The two major sources of local government finance are in the form of rates and government grants. In addition, local governments tend to take out loans from the State and Federal

governments.¹⁴ In 1982-3 in Western Australia, rates yielded \$153.3 million, or 42.3 per cent of total local government receipts. However, there is considerable variation among authorities in terms of the relative importance of rates and government grants. For example, it is highly likely that the level of rates per head of population will be a direct reflection of the socio-economic structure of the LGA - the more affluent LGAs are likely to generate higher rates per head of population. Conversely, the less affluent LGAs are likely to generate lower rates per head of population. The implication of this in terms of the functions of local government is that the more affluent LGAs are more likely to be able to meet the needs of their inhabitants from locally-derived sources.

Government grants yielded \$92.8 million in 1982-3 or 25.6 per cent of local government receipts. They are received from both federal and state governments either for 'general purposes' or for use in specific programmes.¹⁵

In 1973, the Grants Commission Act enabled the Commonwealth Grants Commission to become involved for the first time in advice on financial assistance to local government (Commonwealth Grants Commission, 1983, 102-117). Furthermore, the Local Government (Personal Income Tax Sharing) Act 1976 (W.A.) specified the amount of financial assistance each state was to receive (2 per cent of personal income tax) for local government purposes - (The Local Government (PITS) Act, s.5). Under the 1976 Act, the Local Government Grants Commission in each state is empowered to make recommendations concerning the provision of financial assistance to each LGA. Section 6, sub-section 2 of the Act defines some very broad guidelines for such allocation. At least 30 per cent of moneys received by each state must be allocated on a population basis ('Element A'), with the remainder to be allocated on a 'general equalization basis' ('Element 8'). The latter is designed to preserve a base-line level in the quality of service provision while taking into account the capacity of an LGA to raise revenue to achieve such a level. A Local

Government Grants Commission was established under the Local Government Grants Act 1978 (W.A.) to recommend allocations to LGAs in Western Australia.

In 1983, the Western Australian government decided to shift the emphasis of its local government allocation policy to a needs basis. For the 1983-4 financial year, W.A. allocated 70 per cent of the 2 per cent share of personal income tax to needy LGAs, with the other 30 per cent to be allocated on a population basis. In previous years, the allocation had been 20-30 per cent for needs and 70-80 per cent for population.¹⁶ This policy change is especially relevant for Aborigines since it has been demonstrated in Chapter 3 that on the basis of aggregate SES indicators they are among the most needy of groups and tend to be concentrated in the most economically deprived LGAs.

4.3 Aborigines and local government authority (LGA) expenditures

It must be understood at the outset that local government is only one of several sources of funding likely to have some impact on Aboriginal life chances in the study region. Unfortunately, at the time of writing it was not possible to examine all relevant expenditure and revenue data in order to evaluate the WA government's policy change noted above. The descriptive comments which follow are based on the most recent data available for 1982-3. Notwithstanding the range of funding for social well-being, what is clear is that severe disadvantages for Aborigines continue to persist.⁻⁷

Total expenditure

The average LGA expenditure per head of population in the study region was \$1035, which is significantly higher than the WA average of \$256 (Appendix II, *Table 5*). Within the study region, two LGAs - Upper Gascoyne (6306) and Murchison (2256) - possess significantly above average figures for total expenditures per head of population. On the other hand, three

LGAs spent less than one-third of the study region average Geraldton (190), Wiluna (311) and East Pilbara (322).

No correlation (0.04) was found between the variation in percent Aboriginal population by LGA and the variation in total expenditure per head of population for the study region. In other words, total expenditure per head by the twenty-five LGAs in the study region for 1982-3 appears to bear no relation whatever to need, and thus is unlikely to have any significant positive impact on Aboriginal life chances in the region.

Roads

Average LGA expenditure on roads per head of population in the study region (\$696) was very much higher than that for the State (\$98) (Appendix II, *Table 6*). Those with above average expenditure include Upper Gascoyne (\$5603), Murchison (\$1799), Shark Bay (\$1535) and Sandstone (\$1366). A number of LGAs, on the other hand, spent less than one-third of the study region average - East Pilbara (\$133), Geraldton (\$60), Greenough (\$141), Irwin (\$187), Mt Magnet (\$204) and Wiluna (\$181).

Whereas 38 per cent of all local government outlays in W.A. was spent on roads in 1982-3, the average for the study region was 56 per cent. Priorities within the region (as measured by the percentage of LGA budget expended), varied considerably with some LGAs having well above average figures - Murchison (⁷⁹-⁷ Per cent of total outlays), Shark Bay (84.4%) and Upper Gascoyne (88.9%) and others having a significantly lower level of priority - Cue (36.4%), Geraldton (31.5%) and Greenough (38%).

It appears that expenditure on roads will not have any significant positive impact on Aboriginal life chances since there is no correlation between the percentage of Aborigines and road expenditure per head of population (0.04) or between Aborigines and percentage of the budget spent on roads (0.03).

Recreation

As was noted earlier, recreation consumed a significant percentage of W.A. local government outlays in 1982-3, and is one of the several components of life chances.¹⁸ Average expenditure per head on recreation was higher in the study region (\$83) than for the State (\$52) although there were significant intra-regional variations (Appendix II, *Table 6*). For example, the range was from \$182 in Mullewa to \$17 in Upper Gascoyne. Two other LGAs spent significantly below the study region average on recreation - Yalgoo (\$26.9) and Wiluna (\$41.5).

Budget priorities for recreation varied from 29.9 per cent in Geraldton to 0.3 per cent in Upper Gascoyne. Other significantly below average priorities were evident in Murchison (4.1%), Sandstone (5.1%), Shark Bay (2.7%) and Yalgoo (2.9%).

The low and negative correlations between per cent Aborigines and expenditure per head on recreation (-0.22) and recreation priorities (-0.11) suggest that local government expenditures on recreation will have little positive impact on Aboriginal life chances.

General public service

In the annual Australian Bureau of Statistics publication, *Local Government, Western Australia*, which, among other things contains data on local government expenditures and revenues, the expenditure category, 'general public service' appears for the first time in 1982-3. In previous years this category was referred to as 'general administration' and would include general administrative costs plus other 'expenditure which is not possible to classify to specific purposes'.¹⁸ As was noted earlier, in 1982-3 this category consumed 13 per cent of total local government outlays in W.A., or \$33 per head of population.

Within the study region, expenditure on general public service ranges from \$469 per head in Upper Gascoyne to \$25 per head in Geraldton other relatively high spenders include Sandstone (\$302) and Murchison (\$221). LGAs which spent less than half the study region average were Carnarvon (\$58), Bast Pilbara (\$50), Greenough (\$61), West Pilbara (\$58) and Wiluna (\$44) (Appendix II, Table 6).

The average percentage of the budget spent on general public service was 14.8 per cent with a range from 26.4 per cent in Mingenew to 7.1 per cent in Shark Bay. Upper Gascoyne (7.4%) and Murchison (9.8%) also had significantly below average figures. Interestingly, there was a significant negative correlation between total outlays per head of population and per cent of the budget spent in this category (-0.45). It seems that the inherent problems for less wealthy LGAs in terms of meeting need are exacerbated since a greater proportion of their budget is consumed in administration costs.

The low correlation between expenditure per head on general public service and percentage Aborigines (0.12) and per cent of budget outlays on general public service and Aborigines (-0.05) indicate that local government expenditures in this category are likely to have little positive effect in meeting Aboriginal needs in the study region.

Housing and community amenities

As well as including expenditures on household and other items such as garbage collection, housing and community amenities also includes expenditure on street cleaning, town planning and subdivisions, some provision of dwellings for rental or sale, sewerage, stormwater drains, public conveniences, environmental protection, water supply services and street lighting.²⁰ Housing

and community amenities expenditures can therefore have a potentially significant impact on individual life chances.

Local governments in the study region on average spend more (\$67 per head) than the average for WA as a whole (\$41). However, there is considerable variation within the study region. For example, in 1982-3 the range was from \$289 per head in Sandstone to \$5.9 per head in Murchison (Appendix II). Budget priorities also varied considerably from 18.5 per cent in East Pilbara to 0.3 per cent in Murchison.

Both expenditure per head (-0.22) and priorities (-0.12) showed a slight negative association with the percentage variation in Aboriginal population by LGA in the study region. It is unlikely, therefore, that housing and community amenities expenditures by LGAs will have any positive effect on Aboriginal life chances in the region.

Health

Health, like housing and community amenities, is another important component of life chance expenditure.²¹ Local governments in the study region spent more per head of population on health (\$9.1) than the figure for W.A. as a whole (\$6.1) (Appendix II, Table 7). Health expenditure at the local government level includes 'outlays on the prevention and treatment of human illness, including immunisation, dental services and child health service' ²² The main priority by LGAs in the study region for health, however, was quite low in 1982-3 (1.4 per cent of total expenditures).

Expenditure per head of population on health varied from \$33.7 in Perenjori to 50 cents in Upper Gascoyne. Other LGAs with well below the study region average include Chapman Valley (80 cents), Cue (\$3.90), Meekatharra (\$1.60), Mt Magnet (\$2.60), Murchison (60 cents) and Sandstone (\$1.30).

The significant negative association (-0.42) between percent Aborigines and expenditure per head of population on health indicates that the present outlay on health, like all other major local government expenditure categories is unlikely to have any positive effect on Aboriginal life chances in the study region.

Summary

In order to summarise the implications of the above discussion

for Aboriginal life chances, the rank orderings on each of the major expenditure categories were compared for those shires containing at least 10 per cent resident Aborigines (*Table 5.1*). The table indicates whether the position in the rank order in the study region is likely to have a positive impact on Aboriginal life chances. This is indicated for the upper quartile (ranks 1-6) of each of the three main life chance categories - recreation, housing and community amenities, and health.

It is clear from the table that, in general, local government expenditures on life chances are unlikely to have any significant impact on Aboriginal life chances in those LGAs in which Aborigines tend to be concentrated. Only in Mullewa for

recreation and in Upper Gascoyne for housing and health are there likely to be any positive impacts. Several shires fall into the lower quartile (ranks 19-25) in the study region on at least one expenditure category. Wiluna is especially problematic since it appears in the lower quartile on all expenditure categories (*Table 4.1*). Yalgoo is also problematic since it falls into the lower quartile on all three life chance categories.

Furthermore, Murchison occupies the lowest rank on two of the life chance categories, housing and health.

4.4 Aborigines and local government authority (LGA) resources

The main conclusion of the previous section was that the patterns of resource allocation in the study region are not meeting the need. Or, put another way, the pattern of need does not appear to 'explain' the patterns of LGA expenditures. Of course, the ability of LGAs to influence positively Aboriginal life chances in any way will be constrained to a significant degree by the amount of locally and externally derived resources - collectively, the LGAs in the study region controlled more than \$50 million in 1982-3. Nevertheless, in

TABLE 4.1 Rank Order of Aborigines and Local Government Expenditures
(Shires with at least 10% Aborigines)

	Aborigines	Total Expenditure per head	Roads per head	Recreation per head	General Public Service per head	Housing and Community Amenities Per head	Health per head
	1	24	22	23	24	23	23
WILUNA							
	2	14	13	1*	16	13	13
MULL EWA							
	3	2	2	10	3	25	25
MEEKATHARRA							
	4	15	12	18	13	14	14
CUE							
	5	11	16	8	6	11	11
YALGOO							
	6	7	7	24	5	19	19
UPPER GASCOYNE							
	7	1	1	25	1	2*	2*
CARNARVON							
	8	18	18	14	21	8	8
SHARK BAY							
	9	4	3	22	9	17	17

* likely positive impact on Aboriginal life chances.

the final analysis, the priority attached by a LGA to a particular expenditure category will also reflect the dispositions (political and otherwise) of the politicians and bureaucrats involved in the process of allocating those resources.²³ Therefore, the extent to which all LGA inhabitants participate in the political process will be reflected in expenditure priorities.²⁴

As was mentioned earlier, the largest percentage of W.A. local government revenues for 1982-3 was derived locally in the form of rates. For the study region, however, the largest proportions of revenue were derived externally in the form of specific purpose grants (25.4%) and general purpose grants (16.1%). Rates comprise only 15.2 per cent of total local government revenue compared with 42.3 per cent for W.A. as a whole. The amount of revenue derived from rates per head of population is lower than that for W.A., while the amount per head derived from both types of grants is significantly higher (Appendix II, *Table 8*). Whereas the 'tied' or specific purpose grants reflect the priorities of the allocators (State and Federal Governments) the use of general purpose grants is more likely to reflect the priorities of each LGA.

As was noted earlier in this Chapter, richer LGAs will generally be able to meet local needs more effectively since rates which are generated are likely to be relatively high. If federal and state governments are seriously intent on meeting the needs of all inhabitants, then the proportion of total revenue which is derived externally should be higher for poorer LGAs. At least two expectations emerge from this argument. First, we would expect that rates per head of population would correlate positively and significantly with the income structure of the LGAs discussed in Chapter 3. Second, we would expect that externally-derived revenues would vary inversely with those which are derived locally in the form of rates.

Neither expectation is sustained for 1982-3 data. Whereas rates per head are significantly and negatively associated

with low income (-0.37) as expected, they do not correlate significantly with above average income (0.27). Furthermore, whereas general purpose grants per head do correlate significantly and negatively with above average income (-0.37), there is no significant association with low income (0.2) or with rates per head (-0.26). In addition, although specific purpose grants per head correlate negatively and significantly with above average income (-0.34), no association exists either with low income (0.18) or with rates per head (0.02).

Following a similar line of argument to the above, we would also expect there to be an inverse relationship between the per cent variation in Aborigines by LGA and rates per head of population. If this expectation is sustained, and if State and Federal Governments are concerned with meeting aspects of Aboriginal needs via local government, then we might also expect there to be a positive association between general purpose grants per head and percent Aborigines, and special purpose grants and percent Aborigines. These expectations are sustained, if weakly by our data - that is, there is a significant negative correlation between per cent Aborigines and rates per head (-0.6), and significant positive associations between Aborigines and general purpose grants (0.47) and Aborigines and special purpose grants (0.38). What the results imply is that some attempt is being made by state and federal governments to offset the shortfall in rates for those LGAs with larger percentages of Aborigines through government grants. However, as has been pointed out, even though the W.A. Local Government Grants Commission recognised some disabilities in its 1982-3 allocation, it did this in a rather ad hoc manner.²⁵

In order to examine this implication more closely, the rank orderings on each of the three revenue categories were compared for those shires containing at least 10 per cent Aborigines (*Table 4.2*). What emerges is the overall tendency for those LGAs with larger percentages of Aborigines to fall

Table 4.2 Rank order of Aborigines and main LGA revenue sources (shires with at least 10% Aborigines)

	Aborigines	Rates per head	General Purpose Grants per head	Specific Purpose Grants per head
WILUNA MULLEWA	1	25	14	17
MURCHISON	2	9	12	11
MEEETHARRA			16	
CUE			20	
YALGOO	4			24
UPPER	5	14	5	13
GASCOY	6	22	4	4
NE		21	1	2
CARNARVON			20	19
SHARK BAY	9	19	6	5

into the lower quartile (ranks 19-25) on rates per head of population. Six of the nine shires are in this category - Wiluna, Meekatharra, Cue, Upper Gascoyne, Carnarvon and Shark Bay. Furthermore, for both general purpose grants per head and special purpose grants per head, five of the nine shires appear in the upper quartile (ranks 1-6). Indeed, the Shires of Murchison, Yalgoo, ^{Upper} Gascoyne and Shark Bay appear in the upper quartile for both types of grants. Carnarvon, on the other hand, appears in the lower quartile on both types of grants (*Table 4.2*).

One of the expectations which follows from the above is that the availability of resources to LGAs in the study region both in terms of rates and also in terms of government grants will be able to explain local government expenditure on life chances. However, the pattern of rank correlations with the three life chance categories or recreation, housing and community amenities, and health is significant for only one the three main resource categories - that is rates

(*Table 4.3*). In other words, the availability of resources local governments does not explain local government life chance expenditures. Indeed, there is a significant negative association between general purpose grants and health expenditures.

Table 4.3 Rank correlations of main LGA resources and life chance expenditures

	Recreation	Housing and Community Amenities	Health
Rates	0.46*	0.15	0.41*
General			
Purpose	0.03	0.09	-0.36*
Grants			
Specific			
Purpose	0.04	0.05	-0.19
Grants			

* significant at the 0.05 level.

This raises the important issue of why the attempt to meet local revenue shortfalls by external funding in those LGAs with larger concentrations of Aborigines is not in fact having any significant positive effect on Aboriginal life chances as was concluded earlier in this chapter. If neither need nor resources are able to explain the patterns of local government expenditures in the study region, then the only logical conclusion is that the patterns can be explained by the dispositions of those at the local government level actually involved in the allocation process. As has been pointed out with all categories of LGA expenditure in the study region, the priorities assigned by each LGA to a particular expenditure category as measured by the percentage of the budget spent on that category vary enormously. The explanation of this variation is likely to be found in the attitudes of local government politicians and bureaucrats in the study region. The possibility of those attitudes being in some way either wittingly or unwittingly discriminatory in

terms of the allocation of local government resources cannot be entirely ruled out. In addition, it is highly unlikely that local governments will have any significant positive impact on Aboriginal life chances until Aborigines themselves become involved in the allocation process either as bureaucrats and/or as local government politicians.

4.5 Aboriginal experiences and expectations of local government authority services and resources

The final part of this chapter considers some of the qualitative findings about Aboriginal expectations and experiences of local government services and resources in the study region. There are at least two major factors to bear in mind when considering this issue. Firstly, the wide range of locations in which Aborigines in the study region live, for this wide variety itself affects their expectations and experiences (which are in some ways similar to those of non-Aborigines). That is to say, the remoteness factor means that many rural dwellers are not physically in a position to benefit to the same extent as town dwellers from a range of local government services. But the remoteness factor disadvantages Aborigines living in isolated communities more particularly than other non-Aboriginal rural dwellers for several reasons. Firstly, they have very little, if any, idea of what services a local government does provide other than road grading, whereas many non-Aborigines are aware of the services a local government provides even if they are not in a position to take full advantage of them. Secondly, their collective concentration in an isolated community means that there are numerically many more Aborigines than non-Aborigines who are unable to take advantage of the services which a local government may provide. Thirdly, until very recently Aborigines have had no representatives speaking on their behalf on local councils, particularly in rural areas, and there has therefore been little, if any, consideration given either to ways of drawing Aborigines in remote communities

into the network of local government service provision or to allocating local government resources to Aboriginal needs.

The second major factor which has relevance for Aboriginal experiences and expectations of local government services and resources concerns the labyrinth of government and other insitutional structures which exists and has to be dealt with if even basic needs are to be met. Reference has already been made earlier in this chapter to the jurisdictional imbalance between the responsibility for and the resources to implement particular policies. One consequence of this is the uncertainty in the minds of many people, Aboriginal and non-Aboriginal, as to which level of government or which instrumentality or agency is the most appropriate in dealing with any particular need or service. In addition, there exists the wide range of funding sources for Aboriginal people already referred to. These in themselves give some indication of the legislative complexity encountered and highlight some of the obstacles which are likely to be met. Furthermore, Aboriginal people must work through a wide range of government agencies, departments and other instrumentalities in order to deal with issues that concern them. It is estimated that a fairly typical Aboriginal community in a remote area of the State would on average need to deal with or confront some sixty different entities at federal, state, regional and local levels on issues such as funding, housing, health and welfare, education, employment, law and order, resource development, utilities, communications and land. While this situation creates immediate problems in terms of coordination and the bureaucratic stifling of initiative, it also means that local government itself is only one of many instrumentalities which may or may not be supportive or accommodating, or in a position to respond to expressed Aboriginal needs or concerns. Neither is it clear to many Aborigines precisely what expectations they are entitled to have of local government as distinct from other bodies with which they come into contact.

A case in point is the Jigalong community. During 1984, it was still not clear to Aborigines in Jigalong whether their

expressed concerns about the problems with their water supply and telephone communication were to be dealt with and if so by which government department or instrumentality.

In an earlier chapter, some incidents in different areas of the State were described which characterised the pattern of relationships which have developed between Aborigines and local government authorities. These relationships have been characterised for the most part by mutual indifference and disregard. Despite the face to face interaction occurring at the local level, Aborigines and government authorities at this level have tended to ignore one other. Treated for so many years as a despised and marginal group, whose access to local community services and amenities was restricted or denied, Aborigines have not regarded or considered local government authorities as being bodies interested in meeting their needs. Instead, Aborigines have looked to other levels of government, agencies or organisations, to provide essential services or amenities. These have included the Commonwealth Department of Aboriginal Affairs (represented at the regional level by area and field officers), the State Department of Community Services (formerly the Department of Community Welfare and represented at the local level by welfare officers, Aboriginal field officers and community development officers etc) and sympathetic Federal or State politicians. Increasingly and variably, Aborigines have also been looking to their own associations, organisations and representatives to provide what are in many cases essential local government services and amenities. In many cases, these are given priority according to Aboriginal needs and preferences. However, the ability to provide such services is limited by, among other things, expertise available and financial resources. This point will be taken up again in the chapter which will discuss Aboriginal experiences and expectations of their own incorporated associations and organisations.

At the same time as Aborigines have not tended to look to local government authorities to provide resources or services to meet their needs, local governments have tended to assume

that because few, if any, Aborigines were either ratepayers or on local government electoral rolls they were under no obligation to service locally-based Aboriginal communities (either on reserve or leasehold land). As a result, local government councillors have hardly contemplated what the needs of Aborigines in town areas might be over and above or in any way different from those of other town dwellers in the local government area. Many local government officials in the study region see Aborigines as marginal to the social, economic and political life of the community, and view Aborigines as the responsibility of other levels of government or agencies. While there may be some historical and legislative basis to such perceptions, they can no longer be used as rationalisations by local government authorities for neglecting Aboriginal concerns. Local government councils in rural shires in the study region are almost exclusively composed of pastoralists, graziers, farmers and local business or mining industry people. The interests of such elected representatives rarely coincide, and are indeed more likely to be at odds with the interests of Aborigines in the area. Aborigines have tended to regard local government councils in their areas as squatters' clubs who only looked after each other's interests. Aborigines have certainly not regarded local councils as bodies which could in any way take account of their interests or service their needs. If a road near their reserve or pastoral property was graded regularly, it was seen by Aborigines to be because the road also happened to pass a particular shire councillor's property, not because the council considered Aborigines might appreciate a rut-free road. Aborigines living in the Nangganawilli Community near Wiluna became so exasperated with the broken promises of the Wiluna Shire Council regarding the grading of the road to their village that they eventually went ahead and did it themselves.

Well we went and asked the shire to grade our road. They said 'we do it next week for you'. When next week come, 'we busy, we gotta go on the Carnegie Road or somewhere?...Then we gotta wait for another six weeks or so...we waited too long, now we're

doing it with our own tractor with a grader blade behind. 26

Aborigines in Jigalong have also experienced problems of access to their community, particularly in the wet season when transport trucks have on occasion refused to drive along the waterlogged roads. Although both the Shires of Meekatharra to the south and East Pilbara to the north and west have generally responded positively to the community's request to grade the access roads, there have been times when the grader made conditions worse not better and when the community received no reply about the projected dates for starting and finishing the grading work.

While most, if not all, local authorities have tried as far as possible to ignore, exclude or disclaim any responsibility for Aboriginal residents in their areas, they have been forced on occasion to come to terms with local realities. The housing issue provides a good example. As was seen earlier in the outline of the Aboriginal housing situation in Carnarvon, some local government authorities have been forced in crisis situations to become involved in providing housing for Aboriginal residents, or at least in making land available upon which other agencies could provide such housing. Housing has been and still is an issue of concern between Aborigines and local councils in Geraldton, Mullewa, Mt Magnet and Onslow. Aborigines believe that local authorities oppose any plans put forward for re-locating or re-housing them either individually or as a group. If any reserve or camping area ceases to be occupied, some Aborigines pointed out that local governments are quick to want to resume or rezone such land, or at least to want to do anything that will prevent further Aboriginal usage. Aborigines in Mt Magnet pointed out that some of their old people want pensioner housing built on the old reserve outside town, but that the shire does not want them there. It was further claimed that the Shire Council in Mullewa opposed the State Housing Commission's plans to construct Aboriginal housing in Aboriginal-preferred locations in the town, and had wanted all Aborigines to stay on the reserve. Now that the reserve in Mullewa is unoccupied and

the land has been rezoned for industrial usage by the Shire, local Aborigines are not optimistic that the alcohol rehabilitation centre could be re-located there. This might be made more especially difficult given suggestions that a Mullewa by-pass be routed through the reserve. Some Geraldton Aborigines are endeavouring to acquire an old camping reserve site in order to construct an Aboriginal Community Centre, despite the fact that town planning approval is unlikely to be given (for access reasons and the fact that the projected Geraldton Spine Road goes through or near the site). In the early 1980s when the future of the camping reserve for Aborigines in Onslow came under discussion, the then Department for Community Welfare was aware that the Aboriginal residents of the reserve wanted better housing on the reserve site whereas the West Pilbara Shire wanted to resume the reserve land for its potential as a tourist development area, as it is in a prime location on the Onslow waterfront on the main road into town. The Shire however bowed to pressure and Aboriginal housing is being constructed on the reserve site. Since its initial opposition, the Shire has become cooperative and even supportive, sending representatives or technical advisors to meetings on the reserve when invited. These developments in Onslow contrast to those reported in Mullewa, Carnarvon and other locations where the local government's involvement in the housing issue in their community is seen at best to be ineffective and at worst obstructionist.

Another aspect of Aboriginal experience with local government services and resources concerns employment. Shires do constitute a source of employment, however small, for local residents. The view was expressed by Aborigines in a number of places in the study region that shires discriminated against Aborigines in their employment practices. Where Aborigines are employed by a local authority, it is more often than not as rubbish collectors. In addition, racist attitudes on the part of some shire officials results in poor employment prospects for Aboriginal residents. One shire clerk explicitly voiced the opinion that he wouldn't employ Aborigines if he could help it, because he considered their

work value as 'only 20c compared to \$1 for others'. However, some instances of perceived discrimination in employment resulted more from a misunderstanding on the part of Aborigines of the terms and conditions of employment made available in shires through various job creation schemes, which may only provide a short-term, 'one-off' employment opportunity. Lay-offs in this situation result from the employment contract and not necessarily from discrimination as may be thought. Nevertheless, there does appear to be scope for improving local government-Aboriginal relations both in general and in terms of employment, as some New South Wales developments show. Some New South Wales councils have begun employing Aboriginal people in their social planning departments as community development/community relations workers. Such workers liaise between the Aboriginal community and the local council, encourage Aborigines to use the services and facilities which are available and generally open up channels of communication through such means as pamphlets and newsletters. On this latter point it is interesting to note that several Aboriginal residents of shires in the study region expressed regret that newsletters and meetings which were once regular features of local government activities no longer appeared or took place. In such situations of lack of information, suspicions and tensions in community relations are undoubtedly more likely to occur. When the channels of communication between an Aboriginal community or group and the local shire council are non-existent or poor, there is thus adequate scope for community-development workers of the sort envisaged by Rowley (his 'multi-purpose field-workers') currently operating in some local authorities in New South Wales. Such a person, Aboriginal or non-Aboriginal, could be located in Aboriginal communities or work with Aboriginal associations where requested to respond to Aboriginal needs. Whereas some community development workers have been employed in a limited number of communities in Western Australia, none have been employed by any local government authority in the study region. Those who have been employed have been appointed either by an Aboriginal group itself or by the

State's Department of Community Services. The outcome of such appointments has frequently been an improvement in Aboriginal welfare, community development, political participation and community relations.

Discussions in the study region indicated that most Aborigines are well aware of the second-class treatment which they have received and may still be receiving, but it must be said that most of the instances of direct discrimination which were mentioned to the researcher during fieldwork in the study region resulted from actions or statements of persons other than local government officials. Individual publicans, pastoralists, teachers or shopkeepers were variously mentioned as exhibiting discriminatory attitudes or behaviour. Local government officials were not without blame however.

In conclusion to this discussion, it may be said that Aborigines in the study region have neither expected nor experienced a great deal from local government authorities and that local authorities have rarely, if ever, contemplated allocating resources to the Aboriginal population in their constituencies. This is not to say, however, that Aborigines throughout the study region have accepted neglect or exclusion unquestioningly. Although for the most part relatively uninformed about local government matters, Aborigines in a number of communities in the region have begun to give attention to the possibility of exerting some influence at the local government level, both through standing as candidates and exercising their right to vote. As a political arena, local government is only just beginning to rate serious attention by Aborigines in some localities in the study region. As a result, those shires with high proportions of Aboriginal residents, either in total or in particular wards, are already beginning to show some response to the needs of Aborigines in their communities. A case in point is the Shire of Wiluna. Aboriginal residents at Nangganawilli pointed out that the road to their community had been graded more regularly in the months preceding the May 1985 local government elections. This they saw as an effort on the part

of Shire councillors to woo the Aboriginal vote which would be effective from that date.

Whether the power of the Aboriginal vote in local government authority areas in the study region will be exercised to further and significant effect remains to be seen. The possibility now exists in a number of areas for Aborigines to have greater direct and indirect inputs into the patterns of local government service provision and resource allocation. The next chapter addresses in more detail the issue of the Aboriginal vote, both at the local level and at other levels of government.

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CHAPTER 5 ABORIGINAL SUFFRAGE

This chapter considers two main issues which relate to the question of Aborigines and the local government franchise in the study region. Firstly, consideration is given to the legislative background on the general question of Aboriginal voting rights at different levels of the political system. As part of this consideration, assessment is made of the extent to which Aborigines have been in a position to fully and equally take advantage of these rights. Secondly, information is provided on Aboriginal participation in local government elections in the study region in 1984 and 1985.

5.1 Consideration of legislative background, changes and effects

In 1984 there were two particularly significant pieces of legislation enacted, one at the Federal level and one at the State level, which directly provided the basis for change in the legal ability of Aborigines to participate in the wider political system by treating them in the same way as other Australians. Firstly, since 26 January 1984 amendments to laws relating to enrolling and voting became effective and it is now compulsory for all eligible Aboriginal persons, as all other eligible persons, to apply for and have their names included on the rolls for both Commonwealth and State elections. Secondly, certain amendments made in 1984 to the State's Local Government Act 1960, which became effective at the May 1985 local government elections, provided among other things, for full adult franchise at the local government level. All names which were on Commonwealth and State electoral rolls would automatically be placed on local government rolls.

In order to appreciate the significance of these particular legislative changes for Aborigines in the study region, it is necessary to outline and consider a number of other points

about Aborigines and the franchise at various times and at different levels.

It has been noted that legislation which restricted the Aboriginal franchise can be connected historically to other legislation which was restrictive to Aborigines, some of which has been referred to in Chapter 2.

...much impetus for legislation in mid to late nineteenth century derived from grazing or pastoral interests concerned to protect or expand their economic base. Accordingly, crown-lands legislation, involving restrictions on hunting and gathering, and hence deprivation of Aboriginal livelihood, resulted in a form of peonage in which the Aborigine depended for his survival on government largesse, coupled with stringent - repressive - restrictions upon which that 'largesse' was granted. This sub-citizenship in turn resulted in legislation denying the franchise, ordinary (white) civic rights to property acquisition and disposal, or severely constraining rights to education employment, medical care, housing and travel.'

Until the latter part of the 19th Century, Western Australia like most of the other Australian colonies had a property qualification which allowed only adult males who owned property of a set value to enrol and vote at elections. Although discriminating in other ways there were no specific disqualifying sections on the grounds of race. Nevertheless, property and literacy qualifications excluded most, if not all, Aborigines from acquiring the right to vote. But in 1893 an amendment of the Constitution Act did disenfranchise Western Australia's full blood Aborigines 'except in respect of a freehold qualification' whereas white men could vote by virtue of a 'leasehold' or 'household' qualification.

In 1899, a further amendment, while giving white women the vote, disenfranchised all 'persons of the half-blood' unless they had freehold of the prescribed value. Although the 1905 Aborigines Act in Western Australia made provision for the Minister to exempt any Aborigines from the Act, such exemption did not affect a number of other statutory disabilities, such

as the disqualification from voting. The 1907 Electoral Act, while introducing the principle of adult franchise, specifically disenfranchised, all full-blood Aborigines and 'persons of the half-blood', regardless of property qualifications. As a result of the 1902 Commonwealth Franchise Act, this entailed disenfranchisement at the Federal level also.²

It was not until the post World War II era of assimilation, when official policy changed to one of ensuring that Aborigines were legally enabled to live in Australia on the same terms as other Australians, that such restrictions began to be lifted. The general move during the 1950s towards extending citizenship rights to Aborigines resulted in the extension of the right to vote to all Aborigines. The eventual extension to Aborigines of the Commonwealth franchise in 1962 and the State franchise in 1964 resulted less from any organised demand by Aborigines than from the collective conscience of other Australians who saw the extension of the franchise as a vital step in the removal of discriminatory legislation. It needs to be noted also that when Aborigines were granted the franchise at the Commonwealth and State levels in 1962 and 1964 respectively, they seemed to have been given a freedom which other citizens did not have, that is the freedom to choose whether or not to enrol to vote. There was a non-compulsory provision relating to Aborigines. So, it cannot be assumed that Aborigines immediately became participants in the wider political process by virtue of having been given the franchise, because they were not compelled to enrol and vote as other Australians.²

In addition, apart from the existence of the voluntary provision for Aboriginal voting, other factors meant that Aborigines would not automatically become participants in the political process. Attention has been drawn in an earlier chapter to the point that the socio-economic demographic structure of the study region militates against wider political participation. In addition, many Aborigines were effectively prevented from making use of their rights through

the cumulative effects of long term neglect and discrimination and the physical and social isolation of their communities. Limits to wider political awareness and participation were often set by those in charge of the communities (missions or government settlements) in which many Aborigines lived.⁴ Although after the extension of the franchise to Aborigines some help was given by respective electoral offices to would-be Aboriginal voters, until the late 1970s this was limited, sporadic, uneven and often focussed only on the mechanics of voting and not on broader issues connected with political education and participation.

While the extension of the franchise to Aborigines occurred in the context of an assimilation policy and in some ways represented yet another concession on the part of non-Aborigines intended to allow Aborigines to participate in the wider society, it is clear that many non-Aborigines resented this concession, particularly when Aborigines began to exercise the rights associated with it. Some events prior to 1984 in particular areas of Western Australia indicated not only the difficulties Aborigines experienced in trying to get on electoral rolls, but also the problems associated with staying on them and being able to exercise their vote freely:

Although the 1984 legislative changes were described at the beginning of this chapter as 'significant', it does not appear that they have generally and widely been perceived as such by Aborigines in the study region. The changes at the Federal level at least were accompanied by very little media attention and their initial impact was scarcely acknowledged anywhere in the region. Nevertheless, as a result of these Federal changes, the Australian Electoral Commission expanded its Aboriginal Electoral Education Program in 1984 three teams comprising one or two individuals travelled throughout Australia, concentrating their efforts in remoter Aboriginal communities (See Appendix III). As a particular response to the introduction of compulsory enrolment provisions for adult Aborigines, greater emphasis has been given to electoral education. This has included improving the curriculum

materials based on consultation with Aboriginal groups and maximizing Aboriginal input. Little however is being done by the W.A. State Electoral Office to assist Aboriginal voters in the exercise of their rights.

To what extent then have Aborigines in Western Australia been participants in the political process at the federal and state level through the exercise of their right to vote? Findings for elections until the late 1970s indicate generally low levels of participation by Aborigines in the electoral process.⁶ Apart from the factors of the voluntary enrolment provision, isolation and ineffective electoral education programmes already mentioned, a sense of powerlessness and alienation from the wider political process can also be mentioned. But since the later 1970s participation rates of Aborigines in the electoral process have begun to increase in some areas of the State in particular.⁷ This is most notable in the Kimberley area where events of recent years seem to have increased both wider political awareness and electoral participation of Aborigines in many communities.

The cooperative activity evident in Aboriginal political structures and organisations which have emerged both as a result of direct Aboriginal response to the issue of land rights and as a result of Federal Government policy (to be discussed in the next chapter) seems to have contributed both directly and indirectly to an increasing Aboriginal awareness of the right to vote. At the same time, many Aborigines were gaining experience of campaigning elections and voting matters within their own organisations. But the impact of such developments has been much less generally evident in the study region, with only slight indications in a few communities of an increase in Aboriginal awareness and exercise of their 'electoral rights. This seems to be the case despite the fact that the National Aboriginal Conference in 1984 was specifically urging all Aborigines to use their vote to 'help strengthen the voice of Aboriginal people in the governments of Australia' (See Appendix III).

Whereas in 1984 Aborigines in Western Australia might have had some cause for optimism about the impact that their collective voice was beginning to have on government, if not so much through the ballot box as through their participation in events such as the Seaman Aboriginal Land Inquiry⁸, by 1985 such optimism had almost completely disappeared. Aboriginal individuals and groups gained political awareness through the preparation and presentation of submissions, yet expectations raised were to be disappointed by the response of the State Government to the Report of the Seaman Enquiry. It is hardly surprising then that Aborigines do not appear to be flocking to enrol and vote in a system of government which is not necessarily seen as responsive to their needs or capable of serving their interests.

One of the field officers with the Aboriginal Electoral Education Program made a number of observations with respect to the situation in the study region. He pointed out that whereas the response to the program was 'poor' in many centres, the more isolated, rural Aboriginal communities usually showed a good response, with large numbers of people turning up to meetings. This seemed to be consistent in his experience with a higher level of internal political awareness and involvement in such communities. In larger, more heterogeneous centres, he noted that there seemed to be more of a problem of motivation, of getting people to turnout, of overcoming the, 'don't care, why bother' sentiment. Because of the compulsory enrolment provisions, there is obviously concerted effort to get all eligible voters on the rolls, yet it is apparent that there is still considerable under-enrolment among the Aboriginal population in the area. In addition, non-voting Aborigines with addresses in isolated communities are reported to be more leniently dealt with under the compulsory voting provisions of the relevant legislation. While the reasons for the application of this benign double-standard may be readily appreciated, the fact that it is seen to exist means that Aborigines may be being provided with a disincentive with respect to the exercise of their electoral rights and obligations.

At the level of local government, Aborigines have never been specifically disqualified from voting by virtue of any racial provisions of the Local Government Act 1960 of the State of Western Australia. It can be seen however, to have discriminated against large numbers of Aborigines by effectively preventing their participation as electors in local government affairs.⁹ Such discrimination resulted from the provisions of the Local Government Act 1960 which related to non-rateable land and to the communal or corporate occupation of rateable land. Aboriginal reserves, as Crown land being used for public purposes, were not deemed to be rateable land and hence residents of an Aboriginal reserve in Western Australia were not eligible for enrolment on a municipal roll. In addition, where an Aboriginal group did communally and/or corporately own or occupy rateable land in a municipality then no more than two nominees of the group could vote in local government elections. These limitations on the voting rights of Aborigines in local government elections have now been removed as a result of amendments enacted in 1984 and which took effect at the May elections in 1985. As noted, if a person is already on the Commonwealth/State electoral rolls, then he or she is now automatically on the local government rolls.

At the time the legislative changes to the Local Government Act concerning provisions for adult franchise were being proposed, some press reports referred specifically to the implications of these changes for the Aboriginal population of the State. In an article entitled 'Blacks set for more power - new voting package has outback implications' it was suggested that 'thousands of Aborigines could soon be exercising new influence in outback shires' .¹⁰ While the Minister was reported as agreeing that the reforms to the Local Government Act would have implications for Aborigines, he stated that the amendments were not specifically designed for them, but would also benefit a range of other persons.

At a conference in May 1984, organised by the Country Shire Councils' Association of Western Australia, the Local

Government Association of Western Australia and the Country Urban Councils Association to discuss the Local Government Amendment Bill, many local authorities opposed widening the franchise for local elections. It was reported in the press in an article entitled 'Votes-for-all-plan: Aborigines the hurdle' that 'a desire to keep Aborigines off country councils is behind the move to stop council votes for all' .11 A delegate to the conference was reported as being told by another delegate that 'country Shires were worried about town-dwelling Aborigines being elected to their councils' and that 'if Aboriginal voters in many country towns were properly organised, they could dominate the town wards of the local councils' .12

It is not clear how accurate such reports were, but there is no doubt that anxiety existed in the minds of some Shire officials about the potential of the Aboriginal vote at the local level. The 'us and them' mentality continued to detract from the development of a positive dialogue at the local level, where the Aboriginal participation in wider community matters seemed often to be diminished rather than encouraged. In the next section more detailed consideration is given to the specific issue of Aboriginal participation in local government elections.

5.2 Aboriginal participation in local government elections: 1984 and 1985

In this section, the extent of Aboriginal participation in local government elections in municipalities in the study area in 1984 and 1985 will be discussed.

Table 5.1 gives an indication of Aboriginal enrolments in some shires in the study region for the years 1984-1985. For the 1984 local government elections, full adult franchise did not exist and thus relatively small proportions of Aborigines were in fact on the rolls. A few Aboriginal names were on the rolls as the nominees of associations/groups owning or occupying rateable land in the municipality, others were on

Table 5.1 Aboriginal Local Government Enrolments in Some Shires in the Study Region 1984-5

Shire*	Adult Aboriginal Population (estimated a 50% total)	Estimated Enrolment 1984 (EE' 84)	EE' 84 as a % Total Adult Aboriginal population	Estimated Enrolment 1985 (EE' 85)	EE' 85 as a % Total Adult Aboriginal population	% change in Estimated Aboriginal Enrolment 19 ⁸⁴⁻⁵
Carnarvon	543	180	33	231	43	+10
Cue	55	11	20	10	18	-2
Geraldton	584	45	8	207	35	+27
Greenough	48	4	8	18	38	+30
Meekatharra	183	31	17	78	43	+26
Mount Magnet	27	6	22	6	22	
Mullewa	203	16	8	99	49	+41

OD

Sources: 1, AAPA Annual Report, June 1984
 2. 1981 Census aggregated by Shire where appropriate

* Data for other Shires were incomplete or unavailable. It should be noted that figures of Aboriginal enrolments are likely to be marginally underestimated.

Table 5

the rolls as owners of private rateable property. The largest proportion of those on the rolls in 1984 were residents/tenants of rental property. Observers in the study region suggested that few of those on the rolls would probably have turned out to vote. This observation is consistent with the generally low turnout in local government elections of all voters and is compounded for potential Aboriginal voters by the lack of attention paid to them by candidates and Aboriginal lack of knowledge of the activities of local governments. Despite the apparent lack of participation by Aborigines in local government elections as indicated by enrolment figures and turnout, some shires did have Aboriginal candidates standing for election in 1984. As far as could be ascertained candidates stood for election in a ward in each of the Towns/Shires of Shark Bay, Carnarvon, and Geraldton, as well as in the at-large election of Wiluna. The only successful candidate was in Sharks Bay. Candidates in 1984 were not all running as Aboriginal candidates espousing Aboriginal issues or causes. This could only be said of the candidates espousing Aboriginal issues or causes. This could only be said of the candidates in Geraldton and Wiluna. The Aboriginal candidate in Geraldton was a fairly well-known personality involved in local, State and Federal Aboriginal organisations, but whose chances of electoral success were minimal because of her espousal of the land rights issue, which alienated many non-Aboriginal voters, her inability to campaign effectively because of interstate commitments and the existence of factionalism within the Geraldton Aboriginal community, which meant she would not necessarily have been supported by all of those Aborigines who were enrolled and who would in fact have turned out to vote.

The effect of the running of an Aboriginal candidate in Wiluna, although he did not win a seat, was to mobilise, the non-Aboriginal vote in the Shire which saw a record turnout in order to defeat the Aboriginal candidate. The candidate in Carnarvon, although a field officer with an Aboriginal agency, ran as an individual and thus did not appear to gain support

from any particular section of the Carnarvon Aboriginal community. Shark Bay, the only municipality to return as Aboriginal councillor, is described by both Aboriginal and non-Aboriginal observers as somewhat unusual among communities in the north-west and north of the state for its racial harmony and racial integration. Without going into reasons of if and why this is so, it does appear from brief observation that a high proportion of the Aboriginal people in Shark Bay are economically and socially assimilated into the community and do not identify strongly, if at all, as Aborigines. The Aboriginal council member belongs to a fairly prosperous local family and explicitly opposes land rights.

As seen in *Table 5.1*, enrolments in 1985 had generally increased in most of the shires indicated. This happened as a direct result of legislative changes at both the federal and state level. With the compulsory enrolment provisions for Commonwealth and State elections coming into effect for Aborigines from January 1984, and the enactment of change to the Local Government Act later the same year, Aboriginal people as all other persons now had their names automatically placed on the local government roll if they appeared on the Commonwealth/State roll. But as can be seen from *Table 5.1*, there is still a considerable amount of under-enrolment of Aboriginal people with less than half the eligible Aboriginal population enrolled in each of the shires noted, which makes the efforts of the Australian Electoral Commission's Aboriginal Electoral Education Program seem all the more necessary.

Voting at local government elections is not compulsory and so one cannot assume that any increases in enrolment necessarily mean an increase in turnout. The State Department of Local Government did carry out a brief survey following the local government elections in May 1985 to determine whether there was any change in turnout following the introduction of full adult franchise. The results of this survey indicated that there was a significant increase in turnout compared to the 1984 elections, with country wards experiencing an average

increase in turnout of 49%. The increase in % turnout in the Shire of Wiluna was 294%. On the basis of the results compiled in this brief survey, it can be concluded that a proportion of the higher increase in turnout in country shires is accounted for by previously non-eligible Aboriginal residents, but what proportion in any given shire cannot be determined with any accuracy. It does appear that Aboriginal turnout and interest in the local government elections was still minimal in some shires.

Some shire clerks and Aboriginal community members were aware of only a handful of Aboriginal people who turned out to vote at the local government elections. This was despite an attempt by the local NAC member to encourage Aboriginal people to enrol and vote in local government elections, as well as to think of standing for election (see Appendix IV for contents of a pamphlet which was distributed). Only where an Aboriginal candidate was standing for election was interest higher. It should be noted that interest in local government elections is hardly likely to be generated when council members are frequently returned unopposed. Many Aboriginal people were unaware not only of their right to vote, but also that elections were even to be held. In many cases this lack of awareness resulted from the fact that there were indeed no elections being held in their shire because there was no contest. For instance, in Mullewa, where few Aboriginal people knew about imminent local government elections, it was pointed out by a council official that there were no contested elections in any ward in the 1985 election and that there had only been two elections in the Shire in the past 16 years, with the last being in 1983. Council members are nearly always returned unopposed and little interest is generated. Of the twenty-five local government authorities in the study region, only twelve had contested elections in 1985 and of these three had an election in only one ward. Indeed, only five wards of local councils in the study region were contested both in 1984 and 1985.

Although there was an increase in the number of Aboriginal candidates standing for election in local government in the study region in 1985, they were concentrated in only two shires, Wiluna and Shark Bay. Three Aboriginal candidates stood for election in Wiluna and two in Shark Bay. Only one candidate was elected, in Wiluna. Whereas all the Aboriginal candidates in Wiluna were standing on an Aboriginal platform, with one being from the Wiluna town area itself and the other two being from the eastern part of the Central Desert Area Shire, near the Northern Territory border, the two candidates in Shark Bay were not specifically espousing Aboriginal issues.

Rather, they were standing as community-minded individuals, concerned about the more usual local government issues of preserving the character of the community and maintaining and improving community amenities.

Even though one of the candidates was the founder/President of the local incorporated Aboriginal association, during her local government election campaign she stressed her ability to represent the community as a whole without succumbing to any vested or sectional interest.

It was the election in the Shire of Wiluna in 1985 which provided more interest both for Aboriginal electors and for the press. As already noted, the % increase in turnout in the Shire of Wiluna was the highest in the State and this can be directly attributed both to the enfranchisement of Aborigines as well as to the interest generated by the Aboriginal candidates in the Shire. Headline articles about the elections in Wiluna appeared in the State's major newspaper on two occasions following the announcement of the results.¹³ This was in addition to other articles and letters on the subject which did not gain frontpage attention.¹⁴ The outcome of the election was that one of the Aboriginal candidates from the Central Desert Area polled the highest number of votes, ahead of the white President of the Shire Council. The President of the Council trailed the other Central Desert

candidate on primary votes and managed to secure a place on the Council only on the basis of preferences. Aborigines in Wiluna Shire wanted representation on the Council in order to improve roads in and around Aboriginal communities and also, it was reported, because '...we want a petrol bowser outside our shop. And we want to be allowed in the hotel lounge like the white people'.¹⁵ The successful Aboriginal candidate stated that the purpose of having him elected was to channel more funds for the benefit of the Shire's Aborigines.

We want to find out what the Wiluna Council has been doing with its money in the past few years... I remember about three years ago I went to a station near Wiluna and saw an airstrip only a few metres from the station road. I think many station owners have such strips. I want to find out who paid for them. Council money should be spent where the people are... We want decent roads - that is one of the things I will be pushing for.. 16

The successful Aboriginal candidate had apparently conducted an effective campaign in mobilising the vote in Aboriginal communities in the eastern part of the Shire. It was reported that he had the backing of the Ngaanyatjarra Council and that he had preceded the official election party which had collected votes at early voting places (Warakurna, Wingellina, Blackstone, Jamieson, Warburton, Mungili) in order to marshall the support of his prospective constituents. This obviously proved successful for him, whereas the Wiluna-based Aboriginal candidate was not able to mobilise his support to the same extent for a number of reasons. Among these were the relative difficulty in overcoming voter apathy in the aftermath of a community crisis when people were preoccupied with other concerns. At the same time as Aboriginal turnout in the town area of Wiluna was relatively low, it was reported that the Council President who realised that he was in danger of losing his seat on the Council, personally rounded up as many Aborigines in town as he could, having asked them if they would vote for him, and drove them to the polling booth.

Comment and speculation in the media reports centred on the abilities and personal qualities of the newly elected Aboriginal Councillor, the fears of the Country Shire Councils' Association and white Councillors that the Wiluna Shire would be taken over by Aborigines within three years and the prospect of Aborigines gaining municipal power in other areas of the State as a result of legislative changes. On the last point, one newspaper report concluded that on the basis of Aboriginal population distribution figures there were only two shires in the whole State where the possibility of Aborigines dominating the local council was likely - that is Wiluna and Halls Creek (Kimberley).¹⁷

Changes to legislation at both the Commonwealth and State level have enabled Aborigines in Western Australia to become *de jure* equals with all other citizens in matters of electoral participation at all levels. But the *de facto* situation is that Aborigines are still significantly under-enrolled, which presents an immediate block to their participation in the political system. Whereas this may be intentional on the part of some Aborigines, as indicated by an informant who said 'Why should we vote this time? We weren't good enough years ago when they didn't want us to vote', this is by no means the case for all of those who are not on any electoral rolls. While remarks from deliberate non-enrollees such as the one cited illustrate the sentiments of people resentful of having to dance to a tune always called by others, and while many others have been enrolled without fully understanding the rights and obligations involved and along with many non-Aborigines, have not bothered to exercise their right to vote at the local government level, it is apparent in a limited number of shires in the study region that a growing number of Aborigines do see something to be gained from participation in local government. It seems likely that this trend will continue as political knowledge and experience increase. But this presumes continuing educative efforts on the part of government agencies and more vigorous support for the principle and policy of self-management, which will continue to provide Aboriginal associations the opportunity to

acquire the necessary knowledge, skills and consciousness to become more effective political participants in broader political structures. It is to this topic of Aboriginal associations and the functions they perform that attention is now directed.

CHAPTER 5 ENDNOTES

1. J. McCorquodale, 'An annotated bibliography' in P. Hanks & B. Keon-Cohen, *Aborigines and the law*, George Allen & Unwin, Sydney, 1984, p.239.
2. The substance of this paragraph is summarised from P. Biskup, *Not Slaves Not Citizens*, University of Queensland Press, St Lucia, 1973, p.144.
3. C. Tatz, 'Aborigines political options & strategies', paper presented to the Biennial Conference of the Australian Institute of Aboriginal Studies, 1974, p.6.
4. See H. Rumley, 'Political participation by Aborigines' in D. Jaensch & P. Loveday (eds), *Elections in the N.T. 1974-77*, ANU/NARD, Darwin, 1979.
5. It was reported in the *West Australian*, 23 May 1985, that Perth's Institute of Applied Aboriginal Studies had won a contract to conduct an 18 month project to devise curriculum material as part of the Australian Electoral Commission's Aboriginal Electoral Information Program.
6. See Bolger and Rumley 'Aboriginal participation in the 1977 W.A. State election' in B. Hamilton (ed.), *In firm hands*, University of Western Australia, Department of Politics, 1979.
7. Bolger and Rumley 'Political developments among Kimberley Aborigines, 1977-1980', in *State Capital and Resources in the North and West of Australia*, UWA Press, 1981.
8. In the Report by Paul Seaman, Q.C., *The Aboriginal Land Inquiry* (1984) it is noted that there was '...large Aboriginal participation in the Inquiry' with '...large meetings of Aboriginal leaders in each of the regions of the State.' (pp.7-9). Government funding was made available to enable the opportunity of participation in the Inquiry.
9. What follows is based on material contained in J. Hookey, 'Discriminatory Aspects of the Local Government Franchise in Western Australia' unpublished paper, Human Rights Commission, 1983.
10. *Western Mail* (19 February 1984).
11. *The Post* (29 March 1984) p.11.
12. i b i d .
13. *The West Australian* (10 May 1985) and (22 May 1985).

14. *ibid.* (7 May 1985, 11 May 1985, and 22 May 1985).
15. *ibid.* (11 May 1985).
16. *ibid.* (22 May 1985).
17. As a post-script, it should be noted that in the 1986 local government elections two more Aborigines were elected to the Wiluna Shire Council.

CHAPTER 6 LEGISLATION RELATING TO LOCAL ABORIGINAL AUTONOMY

This chapter outlines and discusses a number of legislative provisions which relate to Aboriginal autonomy at the local level. As well as enabling an assessment to be made of the extent to which Aborigines are able to enjoy and exercise their human rights, specifically their political rights to self-determination or autonomy in the management of their own affairs, this chapter also raises the question of whether legislation relating to Aboriginal autonomy at the local level was intended, has operated, or has the potential, to provide an alternative form of local government structure for Aboriginal communities or groups.

The chapter provides some background to the enactment of legislation to incorporate Aboriginal associations. It also aims to apprise the reader with the provisions and operation of particular pieces of legislation, both Commonwealth and State, which have direct relevance to the issue of local Aboriginal autonomy in the study region.

The main pieces of legislation discussed are the Commonwealth Aboriginal Councils and Associations Act 1976 plus amendments, and the State Aboriginal Communities Act 1979. Brief reference to the State's Associations Incorporation Act 1895 and the State's Aboriginal Affairs Planning Authority Act 1972 will also be made. Several other pieces of legislation have a bearing on the issue of political participation. Most notably perhaps are the Electoral Acts and the Local Government Act which have been discussed in an earlier chapter.

Legislative developments relating to Aboriginal autonomy in other States and Territories in Australia are also of comparative relevance to this discussion, but detailed consideration of them is outside the scope of the present report.¹

6.1 Background to legal incorporation

In the early 1970s, Rowley's three volumes were published on policy and practice with respect to Aborigines, work that had been initiated as the Aborigines Project of the Social Science Research Council of Australia (1964-67) ². The recommendations contained in these volumes, based on extensive research and a national survey, were to have a major effect on Aboriginal policy and practice from the 1970s to the present. Of particular significance here are the recommendations which Rowley made concerning the formation of Aboriginal 'companies' ³. Rowley argued strongly for the establishment of corporate Aboriginal bodies, which, in his view, would be capable of achieving several objectives in a national strategy of improving local Aboriginal organisation.⁴ Firstly, in discussion and planning at the local level to improve Aboriginal health and welfare, Rowley saw an urgent need to include 'the Aboriginal voice'. At the time of Rowley's research and writing, there was virtually no organised Aboriginal voice anywhere in Australia at any level. Although various State Acts during the late 1960s and early 1970s set up mechanisms for consultation, it has been noted that all of these gestures towards consultation were theoretical and

...reflected European control and the potential for manipulation: none of these bodies exercised more than an advisory function; some of them had only a minority of Aboriginal members.⁵

Establishing corporate Aboriginal bodies was thus seen by Rowley as one way of obtaining an organised Aboriginal voice on a range of policy issues which directly affected Aborigines. But such a process was not envisaged by Rowley as only improving the communication channels between governments, voluntary agencies and Aboriginal groups. He saw that the formation of corporate Aboriginal bodies would eventually allow for devolution of decision-making to the local level. He noted a new trend in the 1960s on the part of governments and Christian missions to 'talk of devolution of responsibility to Aboriginal communities'^{1.6}. It was Rowley's

view that corporate Aboriginal bodies would enable constructive change in the direction of such devolution and at the same time enable the retention or development of group autonomy. This would be possible because such corporate Aboriginal bodies would, among other things, be in a position to request government assistance, and be entrusted to manage government subsidies and loans for various specified economic or welfare purposes.

This argument about corporate Aboriginal bodies providing for a degree of autonomy was related to a further function that Rowley envisaged for them. 'Only organisations which provide for a degree of autonomy can give legitimacy to Aboriginal leadership, and a social enclave within which it can develop-¹⁷ In addition, 'the Aboriginal voice' previously referred to would not be articulated effectively unless the existing lack of Aboriginal leadership could be overcome. 'There can be no voice until there is leadership based on the degree of autonomy necessary for decision-making, for considered requests for assistance and for political pressures' .⁸ Here then for Rowley, was a means whereby the manifest political powerlessness of Aborigines could begin to be tackled. The formation of corporate Aboriginal bodies was seen as a way of fostering the emergence of Aboriginal leaders who could lobby on behalf of their communities.

Rowley's recommendations suggested a range of such Aboriginal organisations, 'at the option of the people concerned, and for purposes they define'. They would be flexible enough to allow for stages of development and variations in local tactics. He envisaged the recommendations as a large-scale community development operation assisted on the spot by 'multi-purpose field workers', who could begin to 'reverse the implicit politics of government-to-Aboriginal group relations' in Australia-⁸

A number of these recommendations were to be incorporated as Government policy in the early 1970s. In January 1972, McMahon announced his Government's intention of introducing

legislation for the incorporation of Aboriginal communities. The Whitlam Labor Government was elected in December 1972 on a policy which included, among other things, the encouragement of the political and administrative development of Aboriginal communities.

The legislative direction of their policy was given further impetus in the reports of the Aboriginal Land Rights Commission)-⁰ Mr Justice Woodward stressed the need for legislation by pointing out in his first report that existing legal provisions regarding incorporation were not really adequate for Aboriginal purposes and he recommended that the Department of Aboriginal Affairs should proceed to draw up plans for a system of incorporating Aboriginal communities and groups.

The Aboriginal Councils and Associations Bill was subsequently introduced by the Whitlam Government and read a second time in September 1975. However, even before this Bill was introduced, several groups in the study region were already incorporated under existing State legislation, that is, the Associations Incorporation Act 1895 (W.A.).

6.2 Legislation for legal incorporation

6.2.1 Associations Incorporation Act 1895 (W.A.)

This long-standing piece of legislation provides for the incorporation of non-profit-making religious, cultural, scientific and other bodies. A number of formalities need to be complied with, including submitting the rules of the intended association to the State Attorney-General for approval, placing notices about the intended incorporation in the press and paying associated costs. Advantages to an Aboriginal group incorporating under this legislation included, as for any other association, the ability to acquire, hold and sell property and to sue and be sued in its own name.

Disadvantages included the inability to change the association's name or objectives without the approval of the Commissioner for Corporate Affairs/Attorney-General and restrictions on individual members having commercial dealings with the association. No Aboriginal groups in the study region became incorporated under this piece of legislation prior to the policy initiatives of the early 1970s, although several did so subsequently.

6.2.2 Aboriginal Councils and Associations Act 1976

The new Commonwealth legislation aimed to give Aboriginal and Torres Strait Islander groups a simple, uniform, flexible way of incorporating to enable them to manage their own affairs. The proposed Commonwealth legislation was seen to offer certain advantages to Aboriginal organisations over existing State legislation. For instance, the Bill was designed especially for Aboriginal groups, was more sympathetic to Aboriginal needs and offered a much simpler way of incorporating; it provided for support and help to groups wanting to incorporate; it enabled groups to incorporate for many more purposes than other legislation allowed; and it allowed groups to include Aboriginal custom in the rules of their associations. 11

Two distinct forms of corporate body were dealt with under the Bill - Aboriginal councils and Aboriginal associations. Aboriginal Councils were to be locality-based, non-profit making bodies, formed in relation to a particular geographically-defined area, to provide any of a range of specified services including housing, health, welfare, community amenities or to undertake a variety of functions on behalf of the Aboriginal community in the area. An application to form an Aboriginal council for a particular area is required to state the proposed functions for the Council. The Bill specified (s.11(2)(b)) that such functions 'shall include the provision of a service or services to the Aboriginals living in the area and may include any other function for the benefit of those Aboriginals'; s.11(3)

provides that a reference to a service is to be read as relating to any of the following matters:

- (a) housing
- (b) health
- (c) sewerage
- (d) water supply
- (e) electricity supply
- (f) communications
- (g) education or training
- (h) relief work for unemployed persons
- (i) roads and associated works
- (j) garbage collection and disposal
- (k) welfare
- (l) community amenities

It was envisaged that councils would be most useful to Aboriginal communities on reserves or in country areas and that they would be established along similar lines to local government bodies, that is, shire councils. Various clauses in the Bill outlined details of the establishment of an Aboriginal Council, provided for the election of Council members and for the making of by-laws, with Ministerial approval.

In contrast, Aboriginal associations were to be corporate bodies formed for any legal, social or economic purpose, including the running of a business for profit. They did not need to be geographically defined in the same way as councils.

This particular Bill lapsed as a result of the dismissal of the Whitlam Government in November 1975, but it was accepted in principle and re-introduced by the Fraser Government, with some amendments, and read a second time in June 1976. As Aboriginal Affairs Minister Viner stated when introducing the legislation, the 1976 Bill was basically the same as the 1975 Bill enabling Aboriginal communities

to develop legally recognised bodies which reflect their own culture and do not require them to

subjugate this culture to overriding Western European legal concepts)-²

Furthermore, stated Viner, the Bill ensured that these legally recognised bodies accept responsibility for their corporate actions.

An amendment proposed under the 1976 Bill related to the possible conflict between the establishment of Aboriginal councils in remote, unincorporated areas and any future proposals for the development of local authorities in those areas. Under s.16(3) of the Bill, the Registrar of Aboriginal Corporations would need to take into account any proposal under a law of a State or Territory for the extension to the area of local government before constituting an area as an Aboriginal council area. Although this amendment was approved at the time the Bill as a whole was passed, it was to be subsequently omitted by a later amendment (Aboriginal Councils and Associations Amendment Act 1978 (Cwlth)). This later amendment (16(1)(aa)) tightened the notion of 'taking into account' by providing that the Registrar could only constitute an area as an Aboriginal council area when satisfied

that the area to which the application relates is not, and does not include, an area to which local government extends, or to which it is proposed to extend local government, by or under a law of a State or Territory.

If for this, or any other reason, the Registrar was of the view that an area should not be constituted as an Aboriginal council area, s.16(4) provided that the application should be referred to the Minister for direction.

Section 17(4) of the 1976 Act originally required the Minister before directing the Registrar to constitute an area as an Aboriginal council area, to 'take into account any proposal under a law of a State or Territory for the extension to the area of local government'. This sub-section was also changed by the 1978 Amendment Act. Section 17(4) was omitted and the amended sub-section provided that where an application was referred to the Minister because it overlapped with a local

government area (or a proposed local government area) the Minister should not direct the Registrar to constitute the area as an Aboriginal council area unless the Minister consulted with either the person responsible for administering local government or the Minister responsible for local government matters in the respective State or Territory.

A further amendment proposed in the 1976 Bill related to the making of by-laws in Aboriginal Council areas. By-laws could fix charges for services provided, and make provision for payment. By-laws did not apply to non-Aboriginals. The reason for the proposed amendment was explained by the Minister in his second reading speech. 'Concern has been expressed by some that there may be conflict where local government-type services are already being provided by an existing local government authority.' So clause 30(1) of the Bill provided for Aboriginal councils to make by-laws not inconsistent with existing laws in force in the area of the council. In addition, council by-laws required Ministerial approval and if this was given, such by-laws were required to be laid by the Minister before both Houses of Parliament for scrutiny. By-laws would be void if this was not done. This amendment was opposed on the grounds that it was superfluous and unnecessary.¹³ It was argued that because the by-laws would deal with matters of very little consequence ('they shall be made in respect of the charges to be made for garbage services, or to prevent the destruction of trees in the village council square, or to regulate the use of water or electricity supply services'), there was no need for a 'heavy-handed paternalism' regarding ministerial and parliamentary approval of the by-laws of Aboriginal councils. It was further argued that because no other local government authorities were required to have by-laws approved in this way, then neither should Aboriginal Councils, in order that they be treated equally with other by-law making bodies. While opponents of the amendment considered it necessary for by-laws not to transgress civil rights and thus to be notified to the Minister and made public, they considered the provision for tabling of by-laws in Parliament to be against the spirit

of the legislation which sought 'to create a new social environment for the Aboriginal'. Nevertheless, despite such arguments, the original clause remained and the Aboriginal Councils and Associations Act 1976 was proclaimed, unamended, in 1978.

In 1983, the Department of Aboriginal Affairs (DAA) Officer-in-Charge of Aboriginal councils and associations prepared a review of the operation and administration of the Act. As a result of this review a series of amendments was proposed and accepted by the Government. Some of the more significant amendments related to:

- (a) the inclusion of a section allowing the Registrar to accept financial statements other than those specified elsewhere in the Act;
- (b) the inclusion of non-Aboriginal spouses as persons eligible for membership of Aboriginal councils and associations;
- (c) the removal of restrictions on the disposability of land and other property.

A number of other significant points emerge from this review and invite comment here. Firstly, at the time the review was written, only three applications to constitute Aboriginal councils, as distinct from associations as specified under the Act, had been received - two from the Northern Territory and one from Western Australia (Warburton). All these applications had subsequently been withdrawn and no further applications had been received since September 1979. Whereas the two Northern Territory communities were able, it appears, at a later date to seek incorporation under Northern Territory legislation¹⁴, this was not a feasible option for the Warburton community in Western Australia. Given, on the one hand, the 1978 amendments to the Act relating to Aboriginal councils and areas already incorporated as local government authorities and, on the other, the fact that all of Western Australia is incorporated, then the Western Australian

Aboriginal Community application for incorporation as a council under the Act seems to have been ineligible from the outset. In order for the application to have proceeded, some mechanism to de-incorporate the area concerned would have presumably been necessary. Another option which could have been considered, if the Aboriginal community was concerned, to gain greater local community control over services, finances, and so forth was to have petitioned for severance from the shire of which it formed part under existing provisions of the W.A. Local Government Act.

Rather than advise that the council provisions of the Act be deleted because of their non-utilisation, the review recommended that they be retained as a 'precautionary measure' in case an Aboriginal group wished to use the provisions in the future to 'counter undesirable State or Territory Government action'.

So it seems that at least one of the original primary objectives which the Act was designed to achieve has not been realised. A major section of the legislation designed to promote Aboriginal self-management through the establishment of Aboriginal councils akin to local government authorities remains unutilised. Whether this is because of the existence of incorporated areas which prevents an Aboriginal council obtaining incorporated status or whether few Aboriginal groups have contemplated or been advised to seek such status remains unclear. But the current thinking of the Department of Aboriginal Affairs seems to regard the Aboriginal council provisions in the Act as a sort of fall-back clause rather than positively promoting them as a realistic means of devolving control over local affairs to the Aboriginal community level.

A second point to emerge from this review was that despite the appeal of the Act to the 214 associations which had been incorporated, and the number of applications pending at the time of writing, it was estimated that three-quarters of the

Aboriginal associations receiving Commonwealth funding were incorporated under State legislation.

A last point to note, which was contained in an Information Brief circulated with the Review was that there was questioning by some Aborigines of the desirability of incorporating under this Act, given the combination of DAA involvement and the wide powers of the Registrar. Other points relating to matters raised in this review will be referred to later when discussing Aboriginal experiences of incorporated groups.

6.3 Aboriginal Communities Act 1979 (W.A.)

This piece of legislation does not in itself deal with the process whereby an Aboriginal community or group may become incorporated, but relates to certain Aboriginal communities in W.A. which are already incorporated. Nevertheless, it is relevant to outline the background, intentions and scope of this Act because it deals with by-law making powers, enforcement and sanctions at the local level. Such a discussion will allow some assessment to be made of those powers which the Act confers on Aboriginal communities to make decisions on local matters. At the present time, the Act only applies to certain Aboriginal communities in the Kimberley area in the north of the State. No community in the study region is yet included, though some interest has been expressed. This particular Act has been discussed in detail elsewhere and its operation has recently been reviewed and reflected upon.¹⁵ Although broadly titled 'An Act to assist certain Aboriginal communities to manage and control their community lands and for related purposes', the basis of the Act is essentially that Aboriginal communities take greater responsibility for local law and order. The Act originated with the interest of Mr Terry Syddall, M.B.E., a stipendiary magistrate in the Kimberley area of Western Australia, who had regularly invited older Aboriginal men into the courtroom in Broome to advise him when Aboriginal defendants were appearing. Syddall considered it appropriate to let

Aboriginal community elders see the workings of Australian law in the courtroom and discuss appropriate penalties if an Aboriginal defendant was convicted. In 1977, the State Government asked Syddall to inquire further into aspects of Aboriginal tribal law and to make recommendations about ways of improving Aboriginal understanding of the legal system. With the assistance of an anthropologist and with reference to the Kimberley region, Syddall held discussions with Aboriginal people in the area. It became apparent, firstly, that there was little understanding of the law among tribal Aborigines and secondly, that alcohol abuse was a major cause of social problems in Aboriginal communities. Many communities favoured having the power to control the use of alcohol within their communities. At the time of Syddall's work, communities had no such power to enforce either the restriction or the prohibition of alcohol. The concept thus developed that Aboriginal community leaders could be given more responsibility for and control over this particular problem, as well as other aspects of the lives of their people. 16

These ideas were to be incorporated in the Aboriginal Communities Act 1979. The Act provided that in the first instance it applied to two Aboriginal communities in the north of the State, the Bidyadanga Aboriginal Community La Grange Incorporated and the Bardi Aborigines Association Incorporated (One Arm Point), with provision for other incorporated communities to be included by later proclamation. Councils of communities were to be given powers to make by-laws with respect to a specified range of matters, including restriction of alcohol use.

Section 7 of the Act provides that by-laws may be made by community councils with respect to:

- (a) admission of persons, vehicles and animals to community lands
- (b) regulation of vehicle use and traffic control
- (c) prevention of damage to community grounds and flora
- (d) use and safety of buildings

- (e) regulation of the conduct of meetings
- (f) prohibition of nuisances, offensive acts, disorderly conduct, language or behaviour
- (g) restrictions on alcohol
- (h) regulation of firearms
- (i) rubbish and littering
- (j) prohibition of obstruction of any person engaged in lawful activity
- (k) securing decency, order and good conduct

By-laws made by a community council apply only within the boundaries of the community lands but apply to all persons whether members of the community or not (s.9(1)) (that is, including non-Aboriginal persons). Furthermore the Act provides for enforcement of the by-laws by a member of the police force, through fines and/or imprisonment. Proceedings for breaches of community by-laws come before a court staffed by Justices of the Peace or a magistrate. The intention of the Act was that the court should consist of Aborigines, and so Aboriginal Justices of the Peace were appointed and trained, as were Aboriginal bench clerks, honorary probation and parole officers and police aides. The Act provides that any fines imposed are to be paid to the Council for the use of the community. The scheme was implemented with the gazetting of the La Grange Community By-laws in February 1980. By-laws for the Bardi Community at One Arm Point were gazetted in November 1980. Since then, three other communities have been included in the scheme; Lombadina (June 1982), Beagle Bay (June 1982), and Balgo Hills (October 1982).

So what began as an idea about improving Aboriginal understanding of the law, and European-Australian court procedures, resulted in a scheme for establishing Aboriginal courts in local communities to deal with alcohol-related offences. It also brought about a system capable of devolving to the local level responsibility for and control over a particular range of community affairs, as its title would seem to indicate. But the full potential of the Act to provide such devolution does not appear to have been either fully

realised or explored for several reasons. In assessing how much the Act contributes to Aboriginal autonomy, management or control at the local level, a number of points can be made. Firstly, it should be stressed that the scope of this Act is limited to judicial matters and hence whatever autonomy is allowed for under the Act is limited to this sphere. This point is underlined by the sub-title of the recent review of the operation of the Act, 'An evaluation of the Aboriginal Justice of the Peace Scheme in Western Australia'. Secondly, it has been pointed out that the by-laws made by the various communities are identical in form and content or virtually so, and this suggests that they do not represent the autonomous will of the various Aboriginal communities to which they relate, whose needs may vary according to differences in local conditions)-⁷ The fact that the Government provided a model set of by-laws, which were subsequently adopted, virtually unaltered, by all the communities involved, suggests the possibility of a unilateral decision on the part of Government and/or the ineffectiveness of the consultation process which reportedly took place.

In addition, it has been noted that the by-law powers are framed in orthodox legal terms, the enforcement procedures are strongly linked to the legal system and the penalties are of the same kind as those in force under legislation covering the same ground as the by-laws do.¹⁸

Even though the relative uniformity of by-laws in the different Aboriginal communities suggests a lack of autonomy at the local level, the by-laws have been interpreted as nevertheless being consistent with the concept of internal self-government because Aboriginal community councils are responsible for the administration of them.¹⁹ But this may only be true to a limited extent. This leads to a third point relating to how much the Act contributes to Aboriginal autonomy at the local level. While the community councils may take the responsibility for bringing breaches of the by-laws to the attention of the police, courts in communities do not sit unless the magistrate is present. Thus, Aboriginal

Justices of the Peace do not have, or are not being given, autonomy to conduct courts within their respective communities and a number of them have expressed dissatisfaction with this situation.²⁰ Indeed it has been noted that 'while it is intended that there be Aboriginal involvement in the court administration, there is no requirement for this'.²¹

A further limit to the autonomy which Aboriginal communities have under this Act exists in the control which the Minister retains. It has been noted that the powers of communities to make by-laws are restricted and controlled in several ways.²²

Firstly, under s.4(2) of the Act a community can only be proclaimed as one to which the Act applies if the Minister advises the Governor that it has a community constitution or rules containing proper consultation provisions. Hence, there is an immediate limitation to the extent of operation of the scheme, and the number of communities involved is still relatively small. While it is not suggested that it is only because of the existence of s.4(2) that the scheme has remained limited in extent (this seems also to be due to the limited funds made available for training Aboriginal personnel necessary for the scheme), there are certain criteria which must be met before an Aboriginal community could be proclaimed under the Act. These are:

It must be a coherent community with established community leaders, such as tribal elders, having recognised authority within that community. The people and their leaders must demonstrate a desire to preserve the peace and harmony of their community. They must show a willingness to abide by the laws of the land and be prepared to accept voluntary restrictions on alcohol consumption.²⁻⁵

There is something of a 'Catch 22' involved in the setting of such preconditions, because those communities experiencing the worst law and order problems and hence with the most need for by-laws of the kind provided for in the Act may well not be able to fulfil such preconditions. In addition, those communities with established and recognised community leaders may be better placed than those without to control problem

behaviour without the legislative backing provided in the Act. It would seem that the Act has only been implemented in those communities where it appeared to have a greater chance of success.

Secondly, s.6(3) of the Act provides for the Minister to retain 'control over a community's power to make by-laws and the actual by-laws which it chooses'.²⁴ Only if the Minister is satisfied that the by-laws are 'necessary and desirable' shall he submit them to the Governor for approval. After this step, the by-laws then become subject to parliamentary scrutiny and may be amended or disallowed.²⁵

Thirdly and lastly, s.5 of the Act provides that the Act shall, by proclamation, cease to apply to a community if the Minister is, among other things, of the opinion that the application of the Act to the community is no longer appropriate.

Several more points can be made with respect to the operation and scope of this Act. It has been pointed out that the Aboriginal Justice of the Peace scheme has run into difficulties since it commenced in 1980.²⁶ The implementation of the scheme does not appear to have taken sufficient account of cultural differences and this has resulted in tribal elders often being in a position of conflict as Justices of the Peace in their communities. The continuing dependence of the community courts on the presence of a non-Aboriginal magistrate may reflect the reluctance of Aboriginal Justices of the Peace and other Aboriginal court personnel to assume independent, autonomous local control of a system which now seems to them to lack credibility as much as it reflects their perceived lack of competence or the paternalistic administration of the scheme.

A number of other specific points have been made in the recent review. It is pointed out that the terminology of the Act is difficult to understand and remote from Aboriginal reality; its sanctions are seen to be ineffective; it is seen to have limited terms of reference which deal with minor issues only

and do not include aspects of tribal law. Furthermore, the provisions and operation of the Act are not widely understood and there is no Aboriginal awareness of the power or procedure to alter or add new ones.

These problems are seen to be undermining the effectiveness of both the Aboriginal and non-Aboriginal justice systems and, in addition are eroding the potential which the scheme envisaged for Aboriginal communities to take greater responsibility for local law and order problems.

Another commentator has recently submitted some positive suggestions for improving the practical implementation of schemes such as that of the W.A. Aboriginal Justice of the Peace.²⁷ In putting forward a range of alternative community justice models which could be fitted to the social realities of the various participating Aboriginal communities, Hazlehurst takes account of the experiences of participating Aboriginal communities and suggestions put forward by Syddall and Hoddinott. The important point to note here is the emphasis which Hazlehurst gives in her submission to the need for greater local community responsibility and control and the encouragement of local initiatives in the matter of the administration of Aboriginal community justice.

What is actually needed now is a structural outline of various community justice models which Aboriginal communities may consider and discuss; and, desirably, even visit and evaluate where they are functioning in other communities.²⁸

Perhaps one of the most significant disadvantages of the Aboriginal Communities Act is that the emphasis in the scheme on maintaining local law and order has meant that the by-laws are almost all of a negative, prohibitive type. They relate almost entirely to what is seen by Aborigines as a narrow range of 'humbug behaviour' and there are no general positive provisions for undertaking certain functions or providing particular services to the communities. This limits to a large extent the development of real local autonomy, although the Act, operating as it does only in particular communities

which have already acquired corporate status, provides in s.7(3) for the preservation of any other by-law making powers:

Nothing in this Act affects the power of a community or its Council to make other by-laws, rules or regulations under and in accordance with the Constitution of the community.

To this extent then, when considered in conjunction with any by-law making powers a community may have acquired through incorporation, this Act may be seen to have the potential to enhance the development of effective local autonomy. Opinions differ as to the present scope of the by-laws, although it is agreed that they deal with a fairly limited range of non-controversial topics and generally less serious offences.²⁹ Nevertheless these may often constitute a significant proportion of daily issues occurring within Aboriginal communities over which Aboriginal Councils wish to exercise control. And it is in fact the case that a number of other Aboriginal communities do want to exercise a greater degree of control over local community problems, but they lack the means to do so. Current problems in the implementation of the Aboriginal Communities Act may mean that this is not the most appropriate direction for them to go to gain this control, but at present it is the only one.

As an experiment to give some Aboriginal communities a degree of autonomy in administering aspects of the law at the local level, the scheme which was brought into being by the Aboriginal Communities Act 1979 (W.A.) has had limited success to date. If the recommendations of the recent review and reflections are acted upon and some of the problems of implementation overcome, there seems to be a reasonable chance that some of the original objectives for which the Act was introduced may be achieved. If greater judicial autonomy and community responsibility can be realised there seems to be no reason why a greater degree of autonomy in other areas cannot be given to Aboriginal communities, either under this legislation through such means as more training schemes, including more communities wishing to be involved and

increasing the scope of by-laws and by-law making powers, or in conjunction with other legislation.

6.4 Aboriginal-Affairs Planning Authority Act 1972 (W.A.)

This Act was administered by formal arrangement from 1974 until 1984 by the Commonwealth Government on behalf of the Western Australian Government. In 1984 the State Government resumed responsibility for administration of the Act and established a State Office of Aboriginal Affairs. It is useful to consider the Act here in relation to its functions, provisions and operation in terms of Aboriginal autonomy and political participation. The Act provides for

the establishment of an Aboriginal Affairs Planning Authority, a Commissioner for Aboriginal Planning and an Aboriginal Affairs Advisory Council for the purpose of providing consultative and other services and for the economic, social and cultural advancement of persons of Aboriginal descent in Western Australia...and for incidental and other purposes.

The Act establishes not only the bodies and positions noted but also an Aboriginal Affairs Coordinating Committee and the Aboriginal Lands Trust. Responsibility for the administration of the Act is vested in the Minister with special responsibility for Aboriginal Affairs, who is required under s.7(1) of the Act to have regard to the recommendations of the various statutory bodies established by the Act but is not, it should be noted, bound to give effect to any such recommendations. In fact, s.7(2) provides that the Minister may give any of these bodies general or specific directions as to the exercise of their functions and they are bound to comply.

While such provisions place immediate limitations on the possible exercise of any Aboriginal autonomy within the areas covered by these bodies, restricting their role to an advisory, consultative one, other provisions of the Act could be interpreted as providing the basis for a different

approach. Section 13 lists the functions of the Authority. These include:

13(1) (c) promote opportunity for the involvement of persons of Aboriginal descent in the affairs of the community, and promote the involvement of all sectors of the community in the advancement of Aboriginal affairs

(e) provide consultative, planning and advisory services in relation to the economic, social and cultural activities of persons of Aboriginal descent and advise on the adequacy, implementation and co-ordination of services provided or to be provided from other sources

(f) make available such services as may be necessary to promote the effective control and management of land held in trust by and for persons of Aboriginal descent

(g) to take, instigate or support such action as is necessary to promote the economic, social and cultural advancement of persons of Aboriginal descent in Western Australia, and to that end to apportion, apply or distribute the moneys available to it.

Such statutory functions, particularly the latter two, could, if fully implemented, enable the Authority to provide for a greater level of both Aboriginal autonomy and political participation than is presently being realised, presuming that both the political will, and Ministerial support, were forthcoming. But at the present time, monies available to the Authority are limited, there is virtually no field staff working for it, and functions are not as fully implemented as provided for in the Act.

6.5 Summary

Although various pieces of legislation provide for varying degrees of Aboriginal autonomy or offer the legal means both to allow and to encourage Aboriginal involvement in local administration, it is the conclusion of this chapter that the spirit within which some laws designed to assist Aborigines came into being has been allowed to fade. Governments and

agencies have the legislative backing to do much more in these areas than they are presently undertaking or to allow more than they are presently allowing. Some Aboriginal groups have managed to go some way along the path of political participation, community development and autonomy (self-management) with the enabling provisions of some of the legislation discussed here. It has been noted that

Aboriginal governments created under...Federal or State statutes are free to borrow from the substance of general law or to incorporate specific statutes by reference within their own laws

but to date there have been no court decisions which have addressed the important area of the 'degree to which (Aboriginal governments) are free to reject these external models and develop contradictory legislation'." With respect to Aboriginal autonomy, a number of concerns have been raised in this chapter which merit further consideration by both Aboriginal groups and government. At present, autonomy in the sense of having independent control over one's own affairs (self-government) hardly exists for Aboriginal groups or communities in the study region, although there has been some movement in this direction over the last decade. The nature and substance of the Federal Government's present policy of Aboriginal self-management falls short of current international government's thinking and developments on the rights of indigenous populations to self-government, autonomy, or self-determination and will in all probability need to be reconsidered in the future in the light of the continuing standard-setting activities of the Working Group on Indigenous Populations.

In the meantime the Federal Government could extend the scope and application of existing legislation to provide more fully for Aboriginal autonomy. The potential of the Aboriginal Councils and Associations Act envisaged by policy advisors has not been realised because of the low priority given to educational and community development functions, the fact that no Aboriginal council as opposed to an Aboriginal association

has to date been incorporated under this legislation anywhere in Australia and the government's reluctance or refusal to provide fiscal autonomy to incorporated associations. Further consideration could be given to extending the range of municipal-type functions to those Aboriginal groups, associations or communities expressing an interest and having the capacity to provide them to their members. This could include consideration of the feasibility of establishing an Aboriginal community or communities as local government authorities in themselves. Before the Government reconsiders its policy of self-management in the light of international developments, it would seem necessary for Aboriginal groups and representatives to articulate clearly what autonomy (self-management; self-government; self-determination) does and could mean to indigenous peoples in widely differing situations in Australia in the context of international standard-setting deliberations. This would mean spelling out the precise nature and content of autonomy or self-government along the lines presently being debated in Canada. This will be taken up in Chapter 8. As one commentator has noted

there is relatively little on the Australian scene concerning the precise scope of Aboriginal government legislative and executive powers, or the foundations of these governments...except concerning land use management.³¹

CHAPTER 6 ENDNOTES

1. Reference here is to various Queensland Local Government (Aboriginal Lands) Act amendments during 1978 to 1984; the Queensland Community Services (Aborigines) Act 1984; and the Community Government Provisions of the Northern Territory's Local Government Act.
2. C. D. Rowley, *The destruction of Aboriginal society*, Penguin, Harmondsworth, 1974; C. D. Rowley, *Outcasts in white Australia*, Penguin, Harmondsworth, 1971; C. D. Rowley, *The remote Aborigines*, Penguin, Harmondsworth, 1971.
3. C. D. Rowley, *The remote Aborigines*, op. cit., p.11.
4. C. D. Rowley, *Outcasts in white Australia*, op. cit., p.24.
5. P. Hanks, 'Aborigines and government: the developing framework', in P. Hanks & B. Keon-Cohen, *Aborigines and the law*, George Allen & Unwin, pp.37-;38.
6. C. D. Rowley, *The remote Aborigines*, op.cit., p.11.
7. *ibid.*
8. *ibid.*, p.33.
9. C. D. Rowley, *A matter of justice*, A.N.U. Press, Canberra, 1978, pp.424-5.
10. Aboriginal Land Rights Commission, *First report*, July 1973; *Second report*, April 1974.
11. Australia, House of Representatives, *Debates*, September 1975.
12. Australia, House of Representatives, *Debates*, September 1975.
13. Australia, House of Representatives, *Debates*, pp.2819-21.
14. Under the Community Government Scheme which was introduced to the Northern Territory by amendments to the Local Government Act in 1978.
15. Discussion of this Act appears in the following: S. Gyanraj, '"Autonomy" for Aboriginal Communities' (1979) *Legal Service Bulletin*, 234-6; Human Rights Commission, *Aboriginal reserves by-laws and human rights* (Occasional Paper No. 5), AGPS, Canberra, 1983; Australian Law Reform Commission, *Aboriginal customary law and local justice mechanisms: principles, options and proposals* (References on Aboriginal Customary Law Research Paper

No. 11/12), Sydney, 1984; A. Hoddinott, *That's 'Gardia' business: an evaluation of the Aboriginal Justice of the Peace Scheme in Western Australia*. Criminological Research Council/W.A. Prisons Dept., 1985; K.M.

Hazlehurst, *Reflections on the Syddall-Hoddinott W.A. Justice of the Peace debate, a submission to the Australian Law Reform Commission, September 1985*. A further review of the operation of the Aboriginal Communities Act 1979 (W.A.) has recently been completed by J. Hedges for the Aboriginal Affairs Planning Authority, but this was not available at the time of writing.

16. Western Australia Legislative Assembly, *Debates*, 2 May 1979 and 12 May 1979.
17. Human Rights Commission, *op.cit.*, p.52.
18. Gyanraj, *op.cit.* p~~25~~
19. Human Rights Commission, *op.cit.*, p.59.
20. Hoddinott, *op.cit.*, p.36-7.
21. Australian Law Reform Commission, *op.cit.*, p.69.
22. Human Rights Commission, *op.cit.*, pp.52-53.
23. News Release 17 May 1980 as referred to in Australian Law Reform Commission, *op.cit.*, p.69.
24. Gyanraj, *op.cit.*, p.235.
25. Human Rights Commission, *op.cit.*, p.53.
26. Hoddinott, *op.cit.*
27. Hazlehurst, *op.cit.*
28. Hazlehurst, *op.cit.*, p.10.
29. See Human Rights Commission, *op.cit.*, p.53 'The scope of the by-law making powers is.. .very wide'; Australian Law Reform Commission, *op. cit.*, p.69 'Their (the by-laws) scope is very limited'; Hoddinott, *op. cit.*, p.36 'The Act deals with minor issues only...'
30. B. W. Morse, *Aboriginal self-government in Australia and Canada* (Aboriginal Peoples and Constitutional Reform Series Background Paper No.4), Institute of Intergovernmental Relations, Kingston, Ontario, 1984, p.99.
31. *ibid.*, p.109.

CHAPTER 7 INCORPORATED ABORIGINAL ASSOCIATIONS

This chapter has several objectives which relate in a number of specific ways to the issue of Aboriginal autonomy at the local level. Firstly, the constitutions of incorporated Aboriginal associations in the study region are examined to ascertain and compare their objectives, powers and functions under the relevant legislation¹. Secondly, I will comment on the degree of autonomy these associations appear to have under their constitutions. Thirdly, Aboriginal experiences of incorporated associations are discussed and lastly, aspects of the relationship of incorporated Aboriginal associations with local government authorities are examined.

This chapter also raises the issue of whether incorporated Aboriginal associations are operating as de facto local government authorities, either by legislative intent, or by the desire of the members, or because of default on the part of the local government authorities (LGAs) in which they are located.

7.1 Constitutional objectives, powers, functions and autonomy of incorporated Aboriginal associations²

In this section, constitutions of associations incorporated under the Associations Incorporation Act 1895 (W.A.) will be dealt with first. Within the study area, there are eight Aboriginal associations incorporated under this State Act. Although this legal means to incorporate has existed since before the turn of the century, no Aboriginal group availed itself, or was advised to avail itself, of existing legal provisions until the impetus was provided by the new policy directions of the early 1970s.

**Table 7.1 Aboriginal Groups Incorporated under State
Legislation**

(Associations Incorporated Act, 1893)

Name	Location	Date of Incorporation
1. Jigalong Community Incorporated	via Newman	15/10/73
2. Noualla Group Incorporated	Onslow	1973
3. Nangganawili Community Incorporated	Wiluna	02/11/73
. Koorda Club Incorporated	Carnarvon	29/07/75
5. Bundi Club Incorporated	Meekatharra	12/09/75
6. Aboriginal Boomerang Incorporated	Geraldton	1976 Council
7. Diandi Sporting Association Incorporated	Mullewa	22/02/77
8. Wannar Club Incorporated	Mt Magnet	12/05/78

It is not the purpose here to assess whether these associations have been successful in meeting their objectives. However, it is apparent that some associations pursue constitutional objectives more vigorously than others, and that some objectives remain unacknowledged, forgotten or given very low priority.

It is interesting to consider to what extent the wording or phrasing contained in the objectives of the associations indicates a variation in the constitutional powers of these associations with respect to a particular objective. For instance, whereas the Jigalong Community Incorporated includes as an object 'to *promote* (my emphasis) adequate education, vocational training, health services, employment and housing', the Noualla Group aims 'to *provide*' (my emphasis) these same services. The Jigalong Community's objectives in general are of the order of promote, contribute, assist and encourage and foster, whereas, it can be noted, several other associations include to achieve, provide, train, establish or arrange.

The objectives of the Jigalong and Bundi associations are virtually identical, as are those of Wannar and Diandi. Objectives range from a fairly general grouping (Koorda) to more specific and detailed listings (Noualla). All of the associations share an objective of promoting the community development/advancement, well-being, or welfare of members of the community or association. Three associations (Jigalong, Noualla, Bundi) specifically include as an objective 'the development of viable economic projects and industries', although these are either 'to contribute to the self-support of the community' in the case of Jigalong, or 'to achieve the total self-support of the community' in the case of Noualla. These same three associations all have as an objective to encourage the community or the Aboriginal population of the district 'to develop an effective system of local self-government upon its own lands'. Although this system of local self-government is nowhere defined or elaborated upon, it presumably was intended to mean more than the mere setting

up of a council to administer the business of the incorporated association.

Five associations (Noualla, Nangganawili, Boomerang, Diandi, Wannar) specifically include as an objective the preservation, promotion and/or renewal of traditional Aboriginal culture. Another two (Jigalong and Bundi) include the preservation and development of a sense of community identity. Six of the eight associations within the study area also have as an objective the fostering of friendly relations with the community outside. A differing degree of emphasis can be noted between those associations which stress the welfare, training and education of their members (e.g. Nangganawili), those which stress a general cultural and recreational aim (Diandi and Wannar) and those which stress involvement in and knowledge of the wider community (Boomerang and Koorda).

Within the study area, there are ten Aboriginal groups incorporated under Commonwealth legislation (Aboriginal Councils and Association Act 1976). All these are incorporated as Aboriginal associations (dealt with under Part IV of the Act), not councils. Three of these associations have very specific objectives, one (Walgoo Wydgee) being an alcoholic treatment and rehabilitation centre, another (Geraldton Sporting Aboriginal Corporation) having exclusively sporting functions, and the other (Marrida) being a craypot manufacturing business. One association (Marddu) has fairly specific objectives, whereas the six remaining associations (incorporated under Commonwealth legislation) have wider sets of objectives which are similar in many respects to the objectives of associations incorporated under State legislation.

The constitutional objectives of Thoothoo Wandu and Mungallah are identical to each other, as are those of North Midlands and Yadgalah. These latter two have constitutional objectives

Table 7.2 Aboriginal Groups Incorporated under Commonwealth
Legislation

(Aboriginal Councils and Associations Act, 1976)

Name	Location	Rules Approved Date
1. Thoothoo Wand! Club Aboriginal Corporation	Cue	23/09/80
2. Mungallah Community Aboriginal Corporation	Carnarvon	28/05/82
3. Marddu Council Aboriginal Corporation	Yalgoo	08/06/82
4. Geraldton Sporting Aboriginal Corporation	Geraldton	19/08/83
5. Yadgalah Aboriginal Corporation	Shark Bay	1984
6. Kuwinywardu Aboriginal Resource Unit Aboriginal Corporation	Carnarvon	27/08/84
7. Walgoo Wydgee Association Aboriginal Corporation	Mullewa	not known
8. North Midlands Aboriginal Corporation	Morawa & District	not known
9. Marrida Co-operative Aboriginal Corporation	Geraldton	12/12/84
10. Yuella Fabrications Aboriginal Corporation	Meekatharra	12/12/84

identical to the former two, except for the omission of the last two points. All six of these associations with wide sets of objectives share aims relating to the advancement/well-being of Aboriginal members; to the preservation/promotion of Aboriginal culture; and to the advancement of co-operative/ friendly relations with all Australians. Four of these associations aim to establish and maintain amenities, to encourage sporting, social and recreational activities, to help bring about self-support through economic projects, and to receive and spend grants. Two associations aim 'to help and encourage members to manage their affairs upon their own lands'. The Kuwinywardu Aboriginal Resource Unit has the widest set of objectives, including, in addition to those mentioned above, a co-ordinating function and the provision of specific community services for its members, among which are specified accounting and medical services.

From the point of view of the range of constitutional objectives adopted, it seems to have made no particular difference whether a group is incorporated under State or Commonwealth legislation. Similarities are more marked than differences. Interestingly, given the policy change to self-determination/self-management which preceded incorporation, the majority of the incorporated associations have objectives which can be seen to include assimilationist, integrationist as well as self-management goals.

As far as the degree of autonomy is concerned, as evidenced by constitutional objectives, several points can be made. To the extent that the constitutional objectives of different associations in the study region are similar, it can be presumed that the associations were not exercising a great degree of autonomy in adopting them. Rather they were being advised to adopt a particular model set of objectives, perhaps with some minor variations. To the extent that the constitutional objectives of different associations *do* vary, then the opposite can be presumed, that is that associations

were exercising some degree of autonomy in adopting a particular set of objectives. It might be expected that the location of an association and the orientation (traditional or not) of the Aboriginal population from which its members are drawn would be a reasonably reliable indicator of the type and range of objectives adopted upon incorporation. That is to say, associations in isolated or predominantly Aboriginal communities would have similar constitutional objectives to each other; that the same would be true of associations in small towns or larger centres. That this seems only to be partly the case suggests two possible interpretations. Either associations in similar locations with similar membership bases have adopted different constitutional objectives expressive of their respective and varying autonomous wills, or associations have been advised to adopt constitutional objectives which may not be entirely appropriate to their location, membership or circumstances, in which case it would seem that the constitutional objectives adopted by the association are not a real reflection of the exercise of autonomy.

The titles of some of the associations give some indication of their main functions or activities, and it should be noted that of the three associations with the word 'Community' in their title (Jigalong, Nangganawili and Mungullah), the former two are incorporated under State legislation and the latter under Commonwealth. Whereas these three are the only locality-based community associations in the study region, in the sense of being organised on the basis of a wholly or predominantly Aboriginal community, and might therefore be expected to have a greater degree of self-management or autonomy written into their constitutional objectives than other associations in the study region, this is not the case. Their constitutional objectives and powers are relatively dissimilar and of these three associations only Jigalong, incorporated under State legislation, includes as an objective the 'development of an effective system of local self-government upon its own lands'.

Whereas it can be maintained on the one hand that some of the constitutional objectives of the different associations deal more substantively than others with the achievement of self-government, self-management or autonomy, however defined, on the other hand it can be maintained that *all* of an association's objectives, whatever their specific content, can be dealt with autonomously through the decision-making procedures of the association's council. But there is obviously a difference between the capacity to deal with any issue in an autonomous fashion through discussion and decision-making, and the capacity to actually achieve autonomy or self-management in an effective and meaningful way in any sphere of activity.

As noted earlier, not all of the objectives of any association in the study region are being pursued with equal vigour. Whether associations are obliged to pursue any or all of their constitutional objectives is not clear. Whatever the case, the fact that some objectives receive greater attention than others is partly because of the interests of participating members and members of the council/committee, and partly because some objectives are easier to pursue than others.

This latter point foreshadows part of the discussion to follow later in this chapter, but it is relevant to mention here some of the reasons why it appears that some constitutional objectives have been more readily dealt with than others.

Some objectives under associations' constitutions are less likely to be pursued than others, because they require the active and positive support of outside agencies, in the form of funding, approval and participation, in order to be achieved. Even though this may be forthcoming after associations have negotiated whatever bureaucratic red tape is involved, it still means that associations have more obstacles to overcome, and are not able to achieve their objectives in an autonomous manner. In addition, many associations are still in a dependent position in terms of relying on non-Aboriginal advisors for information on the sort of support and funding which is available to them. This means that non-Aboriginal advisors or outsiders, however

well-intentioned, become the means through which information is obtained. Although this process is a necessary part of incorporation under Commonwealth legislation, it imposes constraints on the ability of Aboriginal associations to manage their affairs autonomously.

Another reason why some associations do not deal with some of their constitutional objectives is that some stated objectives are inappropriate or unrealistic for a particular association. For instance, there is little point in an association such as the Bundi Club of Meekatharra attempting to pursue the objective of developing 'an effective system of local self-government upon its own lands', when the system of local self-government is not specified and, besides which, it has no lands upon which to do so.

7.2 Aboriginal experiences of incorporated Aboriginal associations

This section considers in some detail Aboriginal experiences of incorporated Aboriginal associations in the study region. These experiences will be discussed in relation to:

- (a) the expectations which Aborigines had and have of these associations;
- (b) the nature of the resources available to the association and the ways in which these have been and are allocated; and
- (c) the extent of autonomy achieved by these associations in the management of their affairs.

A major point to note at the outset is that the experiences of Aborigines with respect to incorporated Aboriginal associations in the study region is highly variable, depending on a number of factors.

Firstly, experiences vary, depending on the constitutional powers and functions of the associations, both as outlined in

the previous section, and as interpreted by members. Research on the current project did not encompass extensive surveys among Aborigines of their knowledge of the constitutional powers and functions of associations to which they belonged, but it was apparent that even a number of active members had only vague notions of such, had not sighted a constitution, did not think their association had a copy, but presumed that one existed down in Perth. On the other hand, there were a number of influential individuals who had held the reins of their associations for lengthy periods, who were well aware of the constitutional powers/objectives/functions of their associations, even though adherence to them may have been uneven or loosely interpreted as circumstances required.

Secondly, the experiences of Aborigines vary according to the location and composition of the community in which the association is based. Active involvement and participation increases markedly in remote, predominantly Aboriginal communities, where membership is total, or almost so, and attendance at meetings and activities is high. Such is the case at Jigalong, Nangganawili and, to a lesser extent, Mungallah. Membership of and participation in incorporated Aboriginal associations based in towns and less remote areas is by no means total. A large proportion of Aborigines are not involved in incorporated associations and, in places where more than one association exists, those Aborigines who do join an association participate primarily on the basis of kin solidarity or group allegiance. In such places, active Aborigines put the non-involvement of other Aborigines down to apathy or animosity, whereas non-participants may not see any point in becoming involved in an association which seems to them to consist of self-seeking individuals and their relatives. Such was the situation in Geraldton, Carnarvon, Mullewa, Onslow, Mt Magnet and Meekatharra.

Thirdly, the experiences of Aborigines vary according to the extent of the assistance or support they have needed and been given by others, whether non-Aboriginal or Aboriginal, agency or individual.

7.2.1 Aboriginal expectations of incorporated associations

Discussion in an earlier chapter referred to the background to legal incorporation, changing policies and legislation during the 1970s. Although Aborigines throughout Australia had been expressing dissatisfaction with prevailing policies of assimilation and integration, and clearly wanted a greater degree of control over their own lives, the specific initiatives and accompanying legislation which were intended to give effect to new policies of self-management/self-determination were put forward and implemented by non-Aborigines. Although a number of Aboriginal associations and organisations had emerged or been initiated at different times for a variety of purposes in different areas of the State, changing policies in the 1970s meant that legal incorporation was generally 'agreed to', not requested by, Aborigines. It was 'yet another novel situation thrust upon them'.³ With respect to those associations which acquired incorporated status in the early and mid 1970s, it is not entirely clear what specific expectations Aborigines held of this new status. The new policies were presumably explained to them, 'promises flowed thick and fast'.^{1,4}

Councils with decision-making powers were elected and enjoined to deal with areas of administration previously dealt with by non-Aborigines. Initially at least, this was problematic, because after years of paternalism and exclusion from decision-making in the 'white fella' sphere, Aborigines did not have the resources to cope with some areas of decision-making without white advisors, and continued to expect that whites would handle those matters which were not perceived as internal Aboriginal ones. Inter-Aboriginal politicking also contributed to the difficulties involved in making decisions.

Expectations were certainly raised in many areas in the minds of members of newly incorporated associations about the availability of monies for a variety of projects, services and amenities. This point is also made in the 1983 D.A.A. review

of the Administration of the Aboriginal Councils and Associations Act.

...some applicants are motivated to apply for incorporation in the false belief that incorporation will automatically lead to government funding.⁵

That expectations were unclear or ill-defined on the part of Aborigines can be deduced in part from their lack of input into the wording of the different constitutions of associations. The similarity of a number of constitutions, whether incorporated under State or Commonwealth legislation, has already been noted to be suggestive of the imposition of the expectations of others. It is unclear what Aboriginal expectations were included. The constitutions of the various associations seem to tell us more about the expectations of the policy-makers than the clients. Nevertheless, early expectations of Aboriginal participants do appear to have been related directly to the objectives of the new policy, that is, expectations of having some, or more, say in matters affecting their current and future situations through the establishment of incorporated associations, with elected councils. For some Aborigines such a development certainly did represent a step in the direction of greater autonomy, particularly for those Aborigines living in isolated communities whose lives had until this time been managed by missionaries or managers. The newly introduced structures, by giving Aborigines *de jure* control in decision-making matters from which they had been previously excluded, began to change the basis of power relations at the local level.

The expectations of Aborigines involved in most of the incorporated associations formed since the mid 1970s were never, it seems, intended to be raised to the same extent, along the lines of self-determination/autonomy as was the case in those remote communities which were among the first to be incorporated. It would appear that the more easily defined, isolated Aboriginal communities, which had experienced more pronounced paternalism, were targeted for immediate assistance in acquiring incorporated status after the announced change of

policy, with attention being- turned later to Aboriginal groups in towns or less remote areas. Aboriginal expectations associated with the new associations ranged from having greater access to monies for amenities and projects, to simply having a greater voice in putting priorities on Aboriginal needs.

Despite the relatively wide scope of their constitutional objectives, some Aboriginal participants have interpreted these fairly narrowly, and have only expected their associations to operate as social, recreational and sporting clubs. But the experience of a number of associations which started off with these expectations is that concerns of members have widened - they want to have more of a voice in other matters, they have become more involved in other community issues - in short they have experienced some political development. Some participants observed that they had realised that more could be achieved if an association, not just an individual, raised issues of local concern.

As far as any differences in Aboriginal expectations of Commonwealth or State legislation are concerned, it seems that Aborigines were for the most part guided by the advice of government officials. Commonwealth legislation was cheaper, simpler and allowed for profit-making associations to be incorporated. It was not expected that Aboriginal associations could be wound up more easily under Commonwealth legislation, which seems to be the case.

7.2.2 Resources available and methods of allocation

The purpose of this section is to outline the nature of the resources available to incorporated associations and to indicate the ways in which these have been and are allocated. The major resource consists of money. It is not the purpose here to provide specific data on monies received and expended by the various incorporated associations. One of the major reasons for incorporating an Aboriginal association was to establish a legal entity capable of receiving and spending

monies and indeed this has been a major function. The experience of Aborigines in incorporated associations in the study region, in common with the experience of Aborigines elsewhere in Australia, is that although monies have been more freely available than in previous years, the funding sources have maintained control over their allocation and expenditure. A number of writers have commented on the subject.⁶ It has been suggested that the Commonwealth Government, through the Department of Aboriginal Affairs, continue to maintain control of incorporated Aboriginal associations through its direct funding policy. This not only means that Aboriginal associations must comply with bureaucratic necessities, but also denies them the possibility of financial independence and autonomy. Rather than encouraging Aboriginal initiative, as was the aim of self-management, such funding patterns have tended to perpetuate Aboriginal dependency on non-Aboriginal advisors or agents of government.

Although almost all financial resources available to incorporated associations come from the Commonwealth Government in the form of grants for specific projects or functions, some monies are raised in other ways from other sources. Some associations are further along the track towards self sufficiency than others, in terms of the various economic projects which they run and manage, and which provide monies for community needs. The 'chuck-in' system, whereby a community or association raises money from the resources of its own members to meet specific needs or expenses, is another fund-raising method. A number of associations organise used clothes stalls, craft sales, sporting carnivals etc., to fund ongoing activities or specific small scale projects, which would otherwise go unfunded. The Government's Community Development Employment Plan (C.D.E.P.) has been used by some communities as a means of channelling individual unemployment benefits into a community wages pool from which a variety of community projects employing community members can be funded.

One of the main problems of the allocation of those resources which are available within incorporated Aboriginal communities

relates to the power which particular individuals or particular groups wield. It has been pointed out that these dominant individuals or groups appropriate a disproportionate amount of available monies.⁷ There is some indication that the same situation prevails in a number of Aboriginal associations in the study region. In one case, where one particular Aboriginal family was seen both by other Aborigines in the community and by DAA to have misappropriated and misused the association's amenities, facilities and services for their own private benefit, DAA was able to use its funding capacity to withhold monies from the association until new elections were held and assurances given that private abuses would not continue. So, despite the constraints it places on Aboriginal autonomy, the fiscal vetting of Aboriginal associations by DAA does contain the potential to protect general Aboriginal interests from the possibility of private profiteering. Nevertheless, while the incorporation of Aboriginal associations has allowed the emergence of politically adept individuals, which was one of the aims of the policy and legislative exercise, the results have been uneven. Those who were early starters have been better placed to use their growing knowledge of the white system to seek out and gain resources in the form of grants, funds and advisors. Some associations, which became incorporated because someone somewhere thought it was a good idea, have lapsed for the lack of support, assistance or local leadership. The 'strongest' associations, with wide involvement, relatively vigorous leadership and with reasonable resources at their disposal are those in the largest centres in the region (Geraldton, Carnarvon, Onslow) and the remotest (Jigalong, Nangganawili), whereas the weakest associations, with limited involvement, relatively little leadership and with more limited resources are those in the smaller towns in the region (e.g., Mullewa, Cue, Mt Magnet, Meekatharra). In two of these latter smaller towns, their respective Aboriginal associations are inactive (Yalgoo and Morawa).

Another major resource available to incorporated associations exists in the form of personnel - both government agency staff

and persons hired by the association itself. In the study region, government agency staff are primarily from the Commonwealth Department of Aboriginal Affairs and the State Department of Community Services. As indicated earlier, the Commonwealth legislation for the incorporation of Aboriginal associations provides for field liaison and consultation, back-up assistance and advice. This is provided not only in the initial stages of incorporation, but on an on-going basis and routinely where DAA funding is involved. Despite the comments in the 1983 Review of the Aboriginals Councils and Associations Act that associations would be affected adversely in terms of the availability of such field consultation if incorporation under State legislation only was possible, it is in fact the case that DAA staff offer field liaison and advisory services to any associations which receive DAA funding, regardless of whether they are incorporated under Commonwealth or State legislation. Despite earlier comments about the involvement of non-Aboriginal advisors placing constraints on the development of achievement of Aboriginal autonomy, it is nevertheless evident that government agency staff have, in some cases, been instrumental in getting associations started and keeping associations going. This is part of the problem of the availability of government staff. Government agency staff are not equally available to all Aboriginal associations nor are all Aboriginal associations in equal need or at the same degree of political sophistication as far as requesting whatever government support may be available. In fact, Aborigines in some parts of the study region are not represented by any Aboriginal organisation at all, and are thus unable to draw upon any available resources.

Whereas the early policy and legislative initiatives did recognise that different Aboriginal groups and communities would be at different levels of political and social development and therefore a flexible approach would be required in practice, it does seem that there has been a trend towards the more organised groups being better placed, not only to draw on whatever financial resources are available,

but also to make as much use as needed of available government agency staff.

Two associations (Marddu and North Midlands) in the study region which are incorporated under Commonwealth legislation and which were therefore presumably in a position to obtain government field consultation and liaison, are inactive, and appear to be in the process of lapsing. While the population base from which these two associations draw their members is a relatively scattered and fluctuating one which could have presented problems for a fledgling association to overcome, it nevertheless remains the case that organisations such as these perhaps require more support than they have received or asked for, in order to develop a strong local community organisation if the members so desire it.

Two associations in Carnarvon (Mungallah and Kuwinywardu), both incorporated under Commonwealth legislation, have managed to achieve a level of development because of the support provided by the State's Department of Community Services in the form of a community development officer. But these are the only associations in the study region to have had such a resource made available to them, and this occurred as a result of a crisis concerning Aboriginal housing in the town in the wake of the Carnarvon floods in 1980. Some associations with a strong community base (for example, Jigalong, Nangganawili) have employed a variety of non-Aboriginal personnel such as project officers, community advisors and accountants, and this has enabled them to develop further in the direction of self-management/autonomy than others.⁸ The Kuwinywardu Aboriginal Resource Unit in Carnarvon was incorporated with the intention of enabling Aborigines to provide other Aborigines with some of these same services.

7.2.3 Extent of autonomy experienced by incorporated Aboriginal associations

Several considerations need to be raised at the outset of this assessment of autonomy as experienced by Aborigines in

incorporated associations. Firstly, in the early pronouncements and legislation which accompanied the policy shift to self-management, a number of practical problems were not considered.⁹ For instance, how much self-management and at what level? In what areas and to what extent would the objective of ending Aboriginal dependency and promoting the positive development of Aboriginal identity mean the achievement of independence or autonomy?

A further point to be considered is that various types of autonomy exist, and may therefore be experienced by individuals or associations. Autonomy may exist in the fields of culture, finance, economy, politics or law. Attainment of a degree of autonomy in one or more fields does not necessarily imply autonomy in any or all of the others.

There is no doubt that, compared to their situations under previous policies and practice, Aborigines in incorporated associations have relatively more say in decision-making which affects them and are given the opportunity of putting Aboriginal priorities on, or higher up, the agenda. There have been real gains in political sophistication, political education and the development of local leadership. Associations which became incorporated for the purpose of pursuing primarily recreational objectives now find their members wanting more of a say in other matters. Aborigines in remote communities regard themselves as having autonomy in matters of significance to them, that is, they do have a considerable degree of cultural autonomy. But self-management 'requires a high level of economic independence'¹¹, and this has scarcely been achieved anywhere in the study region. As indicated in the previous section, funding mechanisms deny Aboriginal associations any possibility of fiscal autonomy. While such mechanisms may reflect inbuilt safeguards against potential mismanagement, they mean the stifling of initiative and the negation of control at the local level. Although Aborigines in incorporated associations may find themselves having more of a say and wanting more of a say, whether they are heard or listened to is uncertain. It has been suggested

that projects accorded Aboriginal priority are only funded if they satisfy bureaucratic priorities)¹² That is to say, Aborigines are only heard when they ask for the right things. With the help of white advisors, some incorporated associations have been able to tailor their requests for assistance to departmental budgetary requirements. In fact, some associations have only become incorporated at the suggestion of a departmental advisor in order to qualify for available monies for recreation facilities.

An association with a small membership, whose only activities may be a sewing club (taught by a local white woman) and some recreation activities in an old church hall, can hardly be seen to have autonomy in any of the fields indicated. Nevertheless, an association such as this can provide a forum/a nexus of communication within which ideas can be discussed, grievances aired, information shared and a basis from which a greater degree of self-management could develop. There still lingers in some of the smaller communities a notion described by politicised Aborigines as the 'colonial mentality', in which many Aboriginal people are still so used to being dictated to, that they have not yet assumed any responsibility for decision-making in associations at the local level. They remain uninvolved, expecting no more than what they presently have. While other Aborigines may be involved in their local incorporated association, they have not really experienced any degree of autonomy over community affairs, still being dependent on DAA to provide assistance and expertise. Frustration is compounded by factionalism.

A limitation to the realisation of autonomy or self-management exists in the wind-up provisions of Commonwealth legislation. Whereas the Commonwealth legislation did follow Mr Justice Woodward's advice by building in principles of control over Aboriginal associations in case things went wrong (for example corruption or inefficiency), some Aborigines now see that s.63 of the Act, which relates to the winding up of an association by court order, allows DAA to continue to maintain its control

over Aboriginal associations and thus pay only lip-service to Aboriginal self-management and autonomy.

7.3 Relationship of incorporated Aboriginal associations and local government authorities

Relationships between local government authorities and incorporated Aboriginal associations range from non-existent or negligible, through tolerant to interactive (both positive and negative). Some developments of recent years have caused the generally mutual disregard in which Aborigines and local authorities have held each other to be replaced by a growing sense of the need to take account of each other. This has become most apparent as a result of both the housing issue, which has surfaced in varying ways in a number of communities, and the local government franchise issue, which came into focus during 1984-5.

The East Pilbara Shire and Aborigines at Jigalong have a negligible relationship with each other, with the Aboriginal community having little contact with the shire, except over the payment of rates and the occasional complaint about the need for grading of roads. The housing issue has precipitated more contact between local authorities and Aboriginal associations in Geraldton, Carnarvon, Onslow (West Pilbara), and Mullewa. Whereas in Geraldton and Mullewa, contact over the housing issue took on an adversarial or inconclusive character, in Carnarvon and Onslow, what began as a confrontational or stand-off relationship between local Aborigines and the shires, has become a more co-operative and productive relationship. Channels of communication were no doubt improved in these two latter locations by the employment of community development officers and, while the situation is by no means entirely satisfactory, it is an improvement. The Aboriginal Boomerang Council in Geraldton was involved in a dispute in the courts with the town council over their application to build Aboriginal pensioner housing at Sunset Beach and eventually won an appeal. Relations between the Aboriginal association and the town council have been strained

at times and channels of communication fairly poor. Although it was indicated that a number of shires used to have newsletters or community meetings to provide information on local activities it was regretted by a number of Aboriginal people that such no longer existed (for example, in Wiluna and Cue). Some Wannar Club members in Mt Magnet, although critical of general aspects of race relations in the town and although aware of the shire's negative attitude to the development of Aboriginal pensioner housing on the old reserve, were prepared to contribute \$500 to the construction of an adventure playground when asked by the shire to do so, on the basis that they might then be able to expect shire council support for things they might want in future.

Late in 1984, the Shire President of Cue was reported to be objecting to plans to vest ownership of a hostel in the town in the Aboriginal Lands Trust for use by the Thoo Thoo Wand! Club. The gist of the objection was that the Shire President considered that a substantial community facility should not be controlled by a small group of the town's residents to the exclusion of others.

Unless an Aboriginal association has the use of such a facility, with, it might be added, the capacity to make the facility available to any others on whatever terms may be mutually agreeable, then the association may be obliged to rent or lease premises and use scarce resources in so doing. The Wannar Club in Mt Magnet, for example, leases property from the Catholic Church for \$2000 per annum.

As far as the local government franchise issue is concerned, reference has already been made to changes in the local government act and the implications of these changes for Aboriginal voters in local government elections. The legislative changes are significant here to the extent that they bring about changes in the relationship between Aboriginal associations and local government authorities. Whereas candidates for local elections have until recently been able to ignore Aboriginal associations and residents in

their constituencies, there are clear indications that, in a limited number of shires at least, this will no longer be the case. As one observer remarked, some town clerks and councillors 'can see the writing on the wall'. This situation, as noted earlier, prevails in those shires or wards of shires with high proportions of Aboriginal residents. But the capacity of Aborigines to exert more influence in local government affairs depends on their ability to secure candidates acceptable to the Aboriginal community and to mobilise electoral support for them. While this has begun to happen in a limited way in some shires in the study region, it is more of an uphill struggle for others. Some Aboriginal associations have managed to educate or persuade their members of the importance of participating in local government elections while others have not been in a position to do so, being preoccupied with other concerns or lacking the resources to deal with the issue.

7.4 Summary

The original objectives, which were envisaged by Rowley, Woodward and policy-makers and which were enshrined in legislation providing for incorporation, have been realised to a limited extent in the study region. This is more so in the case of associations in remote areas and in the larger population centres in the region. Incorporated associations in smaller towns or communities are either limited in the scope of their activities, monopolised by one family group to the virtual exclusion of others, or are inactive or virtually so. The process of incorporation itself has been both a catalyst and a means of developing a range of Aboriginal community development objectives. It has not been in all cases, however, a necessary condition for promoting either Aboriginal political participation or autonomy, because other associations and organisations exist which do not have incorporated status (for example, bush meetings and land councils), and yet which attract the participation of a number of Aborigines in the region and deal with issues of Aboriginal

concern. On the other hand, incorporation itself has not been a sufficient condition to enable many Aborigines to enjoy full and equal rights in the area of self-determination or autonomy. This seems to be because many Aboriginal members do not have, and are not provided with, the resources (whether financial knowledge or training, or personnel) necessary to achieve the potential provided for in the objectives of the association.

In the next chapter, attention is drawn to political developments among some of the indigenous peoples of Canada in order to assess the extent to which the political rights to self-determination and autonomy of Indian people are being addressed or realised. This will enable some comparison with the Australian situation.

CHAPTER 7 ENDNOTES

1. It should be noted that Aboriginal associations incorporated at the national level, albeit having representation or offices in the study region, are not included here. Such incorporated associations include, or did include at the time of the research, the National Aboriginal Conference (NAC), National Aboriginal and Islander Health Organisation (NAIHO), National Aboriginal and Islander Legal Service (NAILS), and others. In addition, associations located in the Central Reserves area, on the eastern boundary of both the State and the Shire of Wiluna, have not been included here because they are outside the AAPA North Central Region and no contact or visits were made with them.
2. See Appendix V, which gives the sections of each of the constitutions of the associations referred to in *Tables 7.1 and 7.2*. These sections deal with 'objects for which the association is formed'.
3. R. Tonkinson, 'Djundimunja: a desert Aboriginal community in transition', in M. Bowman (ed.) *Beyond the city: case studies in community structure and development*, Longman Cheshire, Melbourne, 1981, p.136.
4. *ibid.*
5. Department of Aboriginal Affairs, *Review of the administration of the Aboriginal Councils and Associations Act*, Canberra, 1983.
6. See for instance, J. Bern, 'The village meeting in a dependent Aboriginal community', in *Four Papers on North Australian Politics* (North Australia Research Bulletin No. 1), NARU, 1977, p.108; M. Langton, 'Self determination as oppression', in H. C. Coombs, *Australia's Policy Towards Aborigines. 1967-1977* (Minority Rights Group Report No. 35), 1978; R. Tonkinson, 'Aboriginal community autonomy: myth and reality', in M.C. Howard (ed.), *Whitefella business*, ISHI, Philadelphia, 1978; R. Gerritsen, 'Thoughts on Camelot...contemporary politics of remote Aboriginal settlements in the Northern Territory', paper delivered to Australian Political Science Association, 1981; J. von Sturmer, 'Aborigines in the uranium industry: toward self-management in the Alligator River region', in R. M. Berndt (ed.), *Aboriginal sites, rights and resource development*, Academy of the Social Sciences in Australia, Canberra, 1982.
7. Gerritsen, *op cit.*; von Sturmer, *op cit.*
8. Tonkinson, 'Aboriginal community autonomy: myth and reality', *op cit.*

9. von Stunner, op cit.
10. von Sturmer, op cit., p.77.
11. Langton, op cit.

CHAPTER 8 COMPARISON OF ASPECTS OF THE AUSTRALIAN-CANADIAN SITUATION

Following in part from the international perspective discussed in the introductory chapter, an outline will be given in this chapter of the situation of Canada's indigenous peoples with particular respect to the question of autonomy or self-government. The intention is to provide a brief historical overview of policy, legislative provisions and current developments in order to enable some comparisons and contrasts to be made with the situation of Australian Aborigines in general and Aborigines in the study region in particular. It seems particularly timely to make such a comparison for a number of reasons, not the least of which are the ongoing discussions and negotiations in Canada between indigenous peoples, Federal government and provincial governments on the nature and substance of self-government for indigenous peoples. Some of these comparisons and contrasts enable consideration to be given to those aspects of the Canadian experience which have implications for policy and practice in Australia.

8.1 Politico-legal contrasts

There is a range of similarities in the situations of Canada's Indians and Australia's Aborigines as indigenous minorities in their respective countries. Indians and Aborigines have many features and experiences in common, for instance in their population size as a proportion of total population, in the various indicators of socio-economic status and in their roles as recipients of a similar historical pattern of administrative colonialism. Yet to a certain extent, these similarities mask some distinctive politico-legal contrasts which have implications both for the articulation of and achievement of political autonomy or self-government.

One of these contrasts is in the respective constitutional status of Aborigines in Australia and Indians in Canada. Whereas s.91(24) of the British North America Act of 1867 gave the new Canadian Federal Government powers to legislate on matters relating to 'Indians and Lands reserved for Indians', thus precluding provincial jurisdiction over these areas, the constitutional situation in Australia, until 1967 was the opposite. Until the constitutional referendum in 1967, Aboriginal affairs in Australia were a matter for State jurisdiction. So there has been Federal policy and administration of Indian affairs in Canada under the Constitution for nearly 120 years whereas Federal involvement in Aboriginal affairs in Australia has existed

constitutionally for less than 20 years. The overall consequence of this constitutional difference means that policy, legislation and administration in matters relating to Indians in Canada are more uniform than in Australia, where the relatively new constitutional powers of the Federal Government are exercised concurrently with those of the States. The result of this constitutional situation of co-operative federalism in Australia is a diverse range of Federal and State legislation relating to Aboriginal people, some of which has been referred to in this report, which means that Aborigines in different States and Territories in Australia are obliged to deal politically and legislatively with different issues and concerns. It also means that State and Territory governments in Australia have more power to affect developments in the areas of political participation and autonomy for the indigenous peoples within their boundaries than do provincial and territory governments in Canada.

To say that legislation in Canada relating to Indian people is more uniform than is Australia is not to say that matters are straightforward and uncomplicated. The historical circumstances of settlement and contact with indigenous peoples in Canada have resulted not only in legally distinct groupings of indigenous peoples but also in the existence of treaties with some groups and not with others. 'Indians' in

Canada may be status (registered) or non-status. All status Indians have their names on a register maintained by the Federal Government's Indian Affairs Department and fall under the jurisdiction of the Indian Act (the first Indian Act was passed in 1868). All status Indians are members of a band, which is an administrative-political unit created by the Federal Government at the time of the enactment of the early Indian Acts. Not all status Indians live on reserves and not all status Indians are treaty Indians. As indicated, in many parts of Canada treaties were never signed. Non-status Indians are those who have lost their rights as status Indians by, among other things, a process of voluntary enfranchisement. Metis are the offspring of Indian-non-Indian unions and may identify or be treated administratively in the same way as non-status Indians. The other legally distinct group of indigenous people in Canada are the Inuit (formerly referred to as Eskimo) who fall under the jurisdiction of the Federal Government, but not under the Indian Act. The discussion which follows deals for the most part with Indian and Metis people, not with Inuit.

The respective constitutional situations of the indigenous peoples in Canada and Australia also have specific implications for the funding and delivery of services. Status Indians on reserves in Canada receive services from the Federal Government (because of the provisions of the constitution and the Indian Act) and do not have access to provincial and local government services unless additional payments are negotiated and paid. Yet there has been growing Federal concern that these latter services and programs are unavailable to Indians, especially as these are Federally funded. A further problem arises with respect to status Indians who live off-reserve and disagreement between Federal and provincial governments as to whose constitutional responsibility it is to fund and deliver services to them.

Inter-jurisdictional disagreements which often have a negative impact for indigenous peoples have also become a feature of Aboriginal affairs in Australia. Although the constitutional

division of responsibility for the funding and delivery of services is less clear cut in Australia than in Canada, the Federal Government has endeavoured to make ^{up} for State, Territory and municipal neglect or deficiency and used its relatively new constitutional powers to improve Aboriginal living conditions and opportunities nationally. Like the provinces in Canada, States in Australia are generally reluctant either to recognise the special needs of the indigenous peoples within their boundaries or to accept any (or additional) financial responsibility for them. The Federal Government in Australia is keen to get the States to provide the same level of services to Aborigines as other residents within their boundaries, realising that in most cases this will involve greater input in order to achieve similar outcomes. At the present time there is no agreed formula for Commonwealth/State funding and delivery of services/programs to Aborigines although as noted earlier this has been addressed in part in a recent National Inquiry into Local Government Finance and the subject of a Joint Commonwealth/State study.

Whereas local governments in Canada are under no obligation to provide services to Indians on reserves, local governments in Australia are not so excluded. In fact, greater areas of Canada are unincorporated and so most reserves are located outside existing municipal boundaries, unlike Western Australia, where the whole of the State consists of incorporated land. To date in Australia limited attention appears to have been paid to the issue of ensuring that local governments accept responsibility for Aboriginal residents on an equal footing with all other municipal residents.

The significance of the constitutional status of Indian peoples in Canada can be more readily appreciated in the light of developments in the last one and a half decades. In 1969, the Government released its White Paper on Indian policy in which it was proposed to end the special constitutional status of Indians and their relationship with the Federal Government. In making such a proposal, the Government was explicitly

asserting its long-standing goals of assimilating Indians into the wider Canadian society. The rationale behind the proposal was that Indians should be treated as any other Canadians and thus all special Federal legislation and administrative arrangements for Indians would be abolished. These policy proposals were so strongly opposed by Indian groups across Canada that the Government was forced to abandon them the following year. Basically, although Indians objected to the inherent paternalism of the Indian Act, they were not prepared to countenance any moves to repeal it without constitutional guarantees for treaty and other rights. They were highly suspicious of the Federal Government's attempt to transfer responsibility for Indians to the provincial governments, seeing in this among other things a move on the part of the Federal Government to abrogate its treaty obligations.

Indians saw that under these proposals they would lose whatever special consideration they had with no assurance that provincial governments would take account of their needs and interests.

8.2 Policy directions in Indian Affairs in Canada since 1970s

During the 1970s, policy directions in Indian affairs in Canada were the subject of extensive discussion, debate and consultation. In part as a result of the storm created by the 1969 White Paper, Indian input to deliberations during this time became crucial in a way that had never occurred previously. In addition and as a result of this input, policy directions began to shift towards what came to be referred to as 'self-government'. This shift was accelerated by a number of other developments during the decade, including the Mackenzie Valley Pipeline Inquiry, the formulation of government policy on land claims and the negotiation of some agreements under this policy and the constitutional reform process, which culminated in the Constitution Act (1982).

This latter development is of particular concern here because it both focussed and clarified the emerging concerns of Canada's indigenous peoples. Canadian Indian leaders were

successful in putting aboriginal and treaty rights on the constitutional revision agenda and gaining Indian involvement in the constitutional reform process. They demanded constitutional protection of indigenous and treaty rights and this was eventually given under s.35 of the Constitution Act, 1982 which read

35(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this act, "aboriginal peoples of Canada" includes the Indian, Inuit and Metis peoples of Canada.

Although this provision went some way to satisfying the constitutional demands of Canada's indigenous peoples, it did not provide for their continued participation or consideration of the precise meaning of 'aboriginal rights'. So this section was supplemented by a provision for further dialogue in the form of a first Minister's conference at which aboriginal representatives would be participants. This conference was held early in 1983 with one of its agenda items being to identify and define aboriginal rights. Two further conferences have been held since then, in 1984 and 1985, with another scheduled for 1987.

Although these conferences have not yet achieved a major objective, that of securing agreement on the identification and definition of Aboriginal rights for constitutional purposes, they have been successful in a number of other ways. Firstly, the issue of Aboriginal rights and the constitution has been brought into national focus. Secondly, the conferences have provided the opportunity for aboriginal peoples of Canada to formulate more clearly their ideology and position on 'existing aboriginal rights'. As far as this position is concerned, several points can be noted.

Indigenous peoples maintain that their rights include both certain political rights as well as land and subsistence rights. The Federal Government which has argued in the past against either sort of rights has in recent years begun to change its position. However a more fundamental difference

exists in the position adopted by indigenous peoples with respect to the source and substance of their political rights. Indigenous peoples in Canada maintain that their political rights derive from their sovereignty as first nations, and are therefore an 'existing Aboriginal right' under the constitution, so all that is required is for the Federal Government to recognise this right through special legislation and constitutional entrenchment. On the other hand, the Federal Government, supported by the provincial governments in the constitutional negotiations, is prepared to recognise these rights only through a delegation of its sovereign powers to Indian nations, rather than through the recognition of another order of sovereign government in Canada. At this stage, the development of indigenous rights arguments in Australia focus on land rights and less explicitly on political rights.

It is notable that the political rights sought by Canada's indigenous peoples consist essentially of the right to self-government. In fact the issue of self-government became the dominant issue at the 1984 and 1985 First Minister's conferences. This was no doubt due in part to the impetus given to the self-government movement in Canada by the establishment in December 1982 of a Parliamentary Task Force (Special Committee) on Indian Self-Government. Under the chairmanship of K. Penner, the task force reviewed the 'status, development and responsibilities of band governments on Indian reserves, as well as the financial relationships between the Government of Canada and Indian bands' and presented its report in October 1983. There were some fifty-eight recommendations in the report, which overall is viewed as having reflected closely the values and views expressed by indigenous peoples in the hearings.

The most significant is regarded as the one which recommends that the right of Indian peoples to self government should be

explicitly stated and entrenched in the
Constitution of Canada...Indian First Nation
governments would form a distinct order of

government in Canada, with their jurisdiction defined.¹

Before discussing further details of the Penner Report and the government's response to it, it is necessary for clarification to mention the historical and legislative context within which band government has existed in Canada.

Early Indian Acts provided for locally elected band councils on reserves. 'Advanced' Indian bands could request an elected band council system in place of traditional forms of Indian government. Such provisions were designed not only to accomplish the goal of assimilating Indians to the Canadian policy but also to allow the Canadian government to maintain its political control over Indians. For under the Indian act, elected band councils were never allowed to act as tribal governments, rather, they merely served as administrative structures for implementing the approved policies of the federal government. They had very limited powers to make regulations and the Minister and associated government bureaucracy still controlled every aspect of Indian life. 'Band councils functioned as agents of the Canadian government in a model of colonial indirect rule rather than as representatives responsible to their own people. ,2

This attempt to impose a municipal style of local government on Indian people has continued to be a main feature of government policy. Indeed Indians had little option but to accept, albeit reluctantly, the so-called 'elective system' if for no other reason than that it appeared to be the only way to obtain some minimal guarantee of community survival. Ironically, through the political and bureaucratic experience provided to Indian bands through the elective system of band government, and through their dissatisfaction and frustration with it, elected band councils were to become advocates of self-government and critics of a policy which intended that band councils would eventually graduate to municipal status under provincial jurisdiction. Indians not only have a weak constitutional relationship with provincial governments, but also oppose any federal government attempt to make them

provincial municipalities with limited and delegated authority.

Although the goal of self-government emphasises an increase in local autonomy through widening significantly the jurisdictional powers of band councils, thus allowing Indian people an increase in the administration and control of their own affairs, Indian leaders reject the suggestion that self-governing powers be delegated, arguing for self-government as a right on the basis of sovereignty and nationhood.

That the Federal Government was still endeavouring to pursue a policy of making band councils into municipal structures was evident in the proposal in the early 1980s to make bands into Federal municipalities, not provincial local government authorities. Although policy principles remained unchanged, there was included a proposal that bands would participate in formulating their own constitutions. While this represented a slight concession to local autonomy, Indian band leaders were not satisfied with the continued lack of recognition of the right of Indian governments to exist *sui generis*.

The Indian political ideology of self-government thus grew out of a specific historical, politico-administrative legislative context. In addition and as part of a more general claim to recognition of aboriginal rights, the notion of self-government was implicit before the 1970s in demands for recognition of title to non-treaty lands, and later for Indian control of Indian education and in the Dene Declaration of 1975. But it was not until the late 1970s and the early 1980s that the issue of self-government became an item for discussion and negotiation at the national level.

In recommending that the constitutional entrenchment of the Indian right to self-government be the basis of a new relationship between the Canadian Government and Indians and a means of overcoming the powerlessness of band councils, the Penner Report outlined details of how self-government could be achieved and its recommendations implemented. Firstly, each

band would newly define its membership criteria, then decide the form of government the majority of its members supported and show how it would be accountable to its members. Secondly, intending First Nation Governments would seek recognition of the form of government decided upon, which would require enabling legislation to be enacted, i.e. an Indian First Nations Recognition Act. Once such recognition had been obtained, the new First Nation Governments would be in a position to decide, in consultation with the Federal Government, what jurisdictions they would exercise. Once this agreement was reached, the new First Nation governments could begin to operate. Following on from one particular legislative measure under the authority of s.91(24) of the British North America Act the Federal Government would firstly occupy all areas of competence necessary to permit Indian First Nations to govern themselves effectively and to ensure that provincial laws would not apply on Indian land except by agreement of the Indian First Nation government and then would vacate these areas of jurisdiction to recognised Indian governments. This procedure would make available to Indian First Nation governments within their territories 'virtually the entire range of law-making, policy, program delivery, law enforcement and adjudication powers' and yet would not preclude the possibility of negotiating with federal and/or provincial and/or municipal governments for particular programmes or services for their communities.

The Canadian Government's initial responses to the Penner report was to agree with the primary thrust of the recommendations and to develop 'general framework legislation' to accommodate self-government proposals.³ Any political will on the part of the Federal Government to proceed positively with the recommendations has to date been shackled by the lack of majority support among the provinces for the federal government's proposal to entrench a right to 'self-governing institutions' in the constitution. Although the First Minister's Conferences have not as yet secured constitutional entrenchment of any indigenous rights to self-government, mainly because of provincial opposition to what they see as a

third order of government and uncertainty as to its precise meaning and content, the Federal Government has begun to open up specific community level negotiations on self-government. While governments in Canada continue to prevaricate over this issue, the political momentum for Indian self-government continues. This is evidenced in part by the theme of the 1985 Annual General Assembly of the Union of British Columbia Indian Chiefs which was 'Sovereignty is Nationhood'.

In the constitutional reform process and the self-government movement, the position of non-status Indians and Metis has not been ignored. These groupings of indigenous peoples were successful in having their aboriginal rights constitutionally recognised along with status Indians and Inuit and are also directly involved in discussions and negotiations for self-government. Whereas it is assumed that self-government in Canada will require a land-base, this raises a problem for non-status Indians and Metis without any reserves or settlements. Although there are proposals to transfer additional lands presently under federal or provincial control to such peoples, there is disagreement over whether self-government can be meaningful if it is not exercised from a territorial base. Some commentators, both indigenous and non-indigenous, maintain that Aboriginal organisations delivering services to Aboriginal peoples in urban areas represent a form of self-government, whereas others disagree, asserting that self-government for Aboriginal people without a land-base or in an urban area has no content. For those peoples who do not and may never live on reserve lands or the equivalent, it is suggested by some that attention be paid to reforming political institutions in order that indigenous peoples be more adequately represented. The Native Council of Canada (representing Metis and non status Indians) include in their Declaration of Rights 'the right to guaranteed representation in *all* Legislative Assemblies', and propose a system of Aboriginal constituencies. Although some observers consider that any electoral involvement at the Federal and/or provincial level will undermine the movement towards

self-government, others consider such involvement as a necessary means to effecting change.

8.3 Summary

In this chapter, a number of contrasts and comparisons have been drawn between the situations of indigenous peoples in Canada and Australia with respect to the issue of autonomy. What in policy terms is called 'self-management' in Australia is currently referred to as 'self-government' in Canada. This chapter suggests that the policy debate in Canada, among indigenous peoples and between them and the federal government, has proceeded further than in Australia for a number of specific reasons. These relate to constitutional considerations, which are both historical and contemporary in nature.

Federal responsibility for indigenous people has a much longer history in Canada than in Australia and thus because of the greater uniformity of policy, legislation and administration, indigenous people there have been able to direct their collective criticisms at a single, national level of government rather than diffusing their collective energies among State governments, as well other levels of government. This is not to suggest that Indians in Canada have always spoken with a collective voice, but they have longer experience in dealing with the Federal level of government over their needs, grievances and aspirations.

In addition, Indians in Canada have a longer history of administrative experience through the band system of government. Despite criticisms that the band system of government is inherently paternalistic and has not allowed the realisation of autonomy at the local level, it has nevertheless permitted many Indian people to gain the bureaucratic and political experience necessary to lobby and negotiate with government. As indicated in Chapters 6 and 7, many Aborigines have had this opportunity for administrative experience for a much shorter time, although voluntary

organisations in the past did provide a measure of such experience.

More recent constitutional developments in Canada have served to focus the debate on indigenous rights in a more comprehensive way than seems to have been the case in Australia. Whereas in recent years, land rights issues have dominated the Aboriginal-government agenda in Australia, issues on the political agenda in Canada have more recently broadened to include political rights and in particular rights to self-government, which subsume rights to land.

To suggest that the policy debate has proceeded further in Canada than in Australia does not necessarily imply that this has been matched by practice. Some of the same issues are of common concern and as yet have not been resolved or translated into policy or practice. Many Indian communities, as Aboriginal communities, are not serviced to the same extent as other communities and federal governments in both countries have begun to express concern that funds which they may be providing to municipalities on a per capita basis are not necessarily being used to provide local services for their respective indigenous peoples. At the same time, both Indian and Aboriginal peoples are demanding more autonomy and local control over both funding and servicing.

In the conclusion to this report, a number of these comparative considerations and others will be summarised and their implications for policy directions in Australia will be indicated.

CHAPTER 8 ENDNOTES

1. House of Commons, Canada, Parliamentary Task Force (Special Committee), *Report: Indian Self-Government in Canada*, 1983.
2. L. Little Bear, M. Boldt & J. A. Long (eds), *Pathways to self-determination: Canadian Indians and the Canadian state*, University of Toronto Press, 1984, p.xiii.
3. Several of the points which follow were made in P. Tennant, S. M. Weaver, R. Gibbins & J. R. Ponting, 'The Report of the House of Commons Special Committee on Indian Self-Government: Three Comments', 1984 (10) 2 *Canadian Public Policy*, pp.211-5.

CHAPTER 9 CONCLUSION

9.1 Summary

With reference to particular human rights, this research report has examined a number of aspects of the Aboriginal experience of local administration through both local government authorities and incorporated Aboriginal associations. A variety of factors have been taken into account in considering this experience, including historical, socio-economic and legal. These factors have contributed to a situation in which most Aboriginal people in the study region are not in a position to enjoy equally and exercise their rights and freedoms in the sphere of local administration and local government. To a large extent this can be seen to be the result of past discriminatory practices and the relatively poor socio-economic position of Aborigines in Australian society in general. While overt discriminatory practices are now prohibited by law, there continues a more subtle form of indirect discrimination. This indirect, or covert, discrimination exists despite recent legislative changes which have removed the remaining discriminatory provisions and contributed to greater opportunities for Aboriginal political participation and experience of self-management. While Aboriginal people now have equal rights in law, the conclusion that many of them are not in a position to enjoy these rights equally and fully means that measures taken by government, Commonwealth or State, have been inadequate or ineffective to date in guaranteeing or promoting the full and equal enjoyment of the human rights referred to in the earlier part of the report.

Yet the findings of this research indicate that Aboriginal experience of local administration in both the dimensions examined is beginning to broaden, if somewhat unevenly, Aboriginal political participation is beginning to increase along with a desire for more autonomous control over affairs

at the local level. Among other things, Aboriginal demands for land rights, the growth and vitality of the outstation movement, and the number of groups seeking status as incorporated associations all reveal Aboriginal aspirations and demands for autonomy and the acknowledgement of specific rights. Whereas legislative measures have begun to address some of the issues involved in these fields, the approach at present is somewhat piecemeal. Some of the legislation discussed earlier in the report has made a limited amount of Aboriginal autonomy possible at the local level, but this same legislation has also been under-utilized, or found to be problematic. This in part may result from the fact that any one piece of legislation deals only with one dimension of the issue of autonomy or political participation rather than the totality. When cooperative federalism becomes confrontational federalism in the matter of Aboriginal affairs, Aborigines seem to stand to lose in the exercise or enjoyment of their rights.

9.2 Some policy implications

There are a number of policy implications which can be drawn from the material presented in this research project. It is assumed that future policy directions in the areas dealt with in this report will result from inputs from both Aboriginal people and governments and that dialogue will be meaningful and not token.

In the policy implications which are outlined below, the sequence follows that of the foregoing chapters.

1.1 Policy developments in Australia will need to take account of the human rights of indigenous people as these are currently on the international political agenda. The Australian Government will need to ensure that it is in a position to comply with the provisions of future international conventions or instruments.

1.2 The political rights of indigenous peoples may be expressed in a variety of forms and this will need to be

recognised and taken into account both by Aboriginal people and governments in Australia.

2.1 The lessons of history show the importance of continuing to combat racist attitudes and practices through an active, educative program in human rights.

3.1 In dealing with the issue of Aboriginal involvement in wider political and community affairs, it is clear that broader issues of economic involvement and discrimination need to be addressed.

4.1 This report supports the recommendation of both the Committees of Inquiry into Aboriginal Employment and Training Programs and into Local Government Finance that there should be a

comprehensive examination of the effect of existing local government structures and policies on Aboriginal citizens...in the light of the significance of local government in the delivery of public goods and services to the Aboriginal community, and the evident problems in ensuring that Aboriginals have fair and equitable access to local-government decision making and services.¹

4.2 There is scope for improving Aboriginal-Local Government relations in a number of ways, including greater employment opportunities for Aboriginal people and greater involvement of Aborigines as local government politicians or officials. Some communities indicate a clear need for liaison or community development-type workers.

5.1 Electoral education programs need to be maintained and possibly expanded to include both broader adult education objectives as well as information on local government matters. Increased electoral involvement may provide for better representation of Aboriginal people at the local level and improved services for them. Further consideration could be given in the future to the political representation of Aboriginal interests through

such mechanisms as a system of proportional representation or reserved seats in legislatures, measures which have been canvassed or introduced on behalf of indigenous peoples elsewhere.

- 6.1 Legislation relating to local Aboriginal autonomy needs to be reviewed in terms of both the spirit within which it was enacted and in terms of its actual operation. Further consideration needs to be given to the articulation by Aborigines and governments of what local Aboriginal autonomy does and could mean in practice. This might involve an expanded role for incorporated Aboriginal associations. In this regard, it would be instructive to evaluate experiences elsewhere in local autonomy, self-management or self-government. Within Australia, account needs to be taken of developments in local or community government in Queensland and the Northern Territory.
- 7.1 The actual operation of incorporated Aboriginal associations shows the present limits to the realisation of local Aboriginal associations may want to re-examine, revise or modify their constitutional objectives in the light of their operating experiences and their current and future objectives. Governments may need to reassess their position with respect to the present constraints which they place on local Aboriginal autonomy through incorporated associations.
- 8.1 The lessons to be learned from the Canadian experience of Indian involvement in local administration include the need to address and clarify the constitutional position, and the need to provide indigenous people with the opportunity to gain experience in political administration. There is also a need to debate and formulate the precise nature of self-government (autonomy) which is relevant and applicable to indigenous peoples in a wide range of circumstances. This obviously

raises questions of resources and funding, which are currently receiving attention in Australia.

CHAPTER 9 ENDNOTES

1. National Inquiry into Local Government Finance, *Report*, AGPS, Canberra, 1985, pp.336-7.

ABORIGINAL AFFAIRS - BACKGROUND NOTES:
ABORIGINAL SELF-MANAGEMENT (1983)

The Australian Government see self-management as the key to the implementation of policies for Aboriginal development. Self-management requires that Aboriginals, as individuals and as communities, be able to make the kinds of decisions about their future as other Australians make and to accept responsibility for the results. In advancing the concept of self-management the Government has sought to open the way to Aboriginals, as individuals or in cooperation with others and in some cases with government support, to make choices as to their lifestyle, to have a say in their community affairs, to provide services for themselves, to conduct businesses, and, within the law, to make their own decisions. This concept is accepted by Aboriginals.

The implementation of the policy of self-management is demonstrated by national bodies such as the National Aboriginal Conference (MAC) which advise the Australian Government on Aboriginal policies and their application to local, community-based services in such fields as health, education, child care, housing, land rights, employment and law and justice.

A major step toward Aboriginal self-management was the establishment of the Aboriginal Development Commission (ADC), which acquires land for Aboriginals, helps Aboriginals engage in enterprises, provides finance for housing and assists in the training of Aboriginals in relation to matters associated with the functions of the Commission. It also has the responsibility to give advice and make recommendations to the Minister for Aboriginal Affairs on improvements to the economic and social development of Aboriginals.

The policy of self-management has been evolving over a period of years. It is a departure from earlier attitudes in which the answers to Aboriginal problems tended to be imposed by governments, officials and missionaries without enough thought being given to the needs and aspirations of the Aboriginals as seen by Aboriginals.

National selfmanagement bodies

The principle of consultation underlies all programs designed for Aboriginals and the establishment of the MAC, which represents Aboriginal opinion and provides advice to the Government, is a good example of this policy at the national level.

The MAC advises the Government on:

- long-term goals which the Government should pursue and the programs it should adopt;
- priorities for expenditure on Aboriginal affairs within the context of the overall Budget allocation; and
- the effectiveness of existing programs and the need for new programs.

The NAC is a fully elected body of men and women who represent separate geographical areas of Australia. In the first elections, in November 1977, there were 313 nominations for thirty-six positions. The election was conducted by the Australian Electoral Office, and followed an extensive multi-lingual campaign to inform the Aboriginal community of the electoral arrangements.

A second general election was held in October 1981. Nineteen new members were elected. More than 34 000 votes were cast, representing 43 per cent of eligible voters. This was a significant turnout in a voluntary poll as it indicated a vote of confidence by Aboriginals in the NAC.

In the 1981-82 financial year the NAC was allocated \$2.7m, an increase of 25.6 per cent over the previous year. During the year, seven additional positions were created within the Secretariat of the NAC to improve its research capabilities.

The NAC is consulting with Aboriginal communities on the concept of an agreement of Makarrata between the Aboriginal people and governments. (Makarrata is an Aboriginal word generally accepted as meaning 'the end of a dispute and the resumption of normal relations'). The Commonwealth Government has responded to preliminary proposals put by the NAC on Makarrata.

The NAC has been encouraged by the Commonwealth to negotiate directly with the State Governments on matters affecting them, and contacts have been opened up by the Commonwealth for these negotiations.

An amount of \$100 000 was specifically set aside in 1981-82 for the development of Makarrata by the NAC and a further \$50 000 has been allocated for Makarrata in 1982-83.

The MAC also played an important part in the consultations between the Australian Government and Aboriginal communities which led to the establishment of the ADC.

The establishment of the ADC, which began operations on 1 July, 1980, gave to Aboriginals the control of important funding arrangements for their own advancement and was a further step in the implementation of the Australian Government's policies of self-management. The ADC can acquire land for Aboriginal communities and groups, lend money to Aboriginals for housing and personal purposes, and finance business enterprises. The Aboriginal Development Commissioners, including the Chairman, are Aboriginals.

The ADC replaced the Aboriginal Land Fund Commission and the Aboriginal Loans Commission, and took over the Aboriginal Enterprises Program from the Department of Aboriginal Affairs. From July 1981 it also took over responsibility for grants-in-aid housing previously funded directly to Aboriginal Housing Associations by the Department of Aboriginal Affairs.

The ADC was allocated \$50.3m for its second year of operation. Of this \$9m represented the second contribution by the Australian Government to a permanent capital fund to give the ADC access to capital for investment on behalf of Aboriginals and Torres Strait Islanders. A further \$59.5m is available to the ADC for 1982-83 of which \$1m is for the capital fund. Contributions to the capital fund now total \$20m.

Aboriginal land councils

Aboriginal land councils play a major role in Aboriginal land rights claims in the Northern Territory.

Since the Australian Government's Aboriginal Land Rights (Northern Territory) Act became law in 1977, Aboriginals in the Northern Territory have been granted free-hold title to 362,930 km² - equal to 27 per cent of the Territory.

Land titles are held in trust by Aboriginal Land Trusts, and the land is administered by the Northern Land Council, the Central Land Council and the Tiwi Land Council. Members of the trusts and the councils are local Aboriginals chosen by their communities. The Act requires the councils to consult with traditional owners of the land and to act in accordance with their wishes.

The councils have negotiated terms and conditions of mining agreements whereby they receive royalties and other payments for mining on Aboriginal land.

Aboriginals also have control of land in other parts of Australia, including a freehold title to more than 100 000 km² (38 600 sq miles) of the north-western part of South Australia.

Health and welfare

In recent years efforts to overcome the serious problems of Aboriginal health and welfare have been increased. Many of the problems remain but a range of programs has been established to correct the causes of the problems.

Aboriginal involvement in all aspects of health services from design to delivery is encouraged. The Government supports self-help in the health and welfare field, and regards it as vitally important to the successful implementation of programs to improve the health status of Aboriginals.

Aboriginals are playing greater roles in community health, alcohol rehabilitation, health education and nutrition advisory services. Training of Aboriginals for these roles is being increased. The involvement of Aboriginals is seen as essential in helping shape available services to the lifestyle and environment of the people who need them.

A total of \$21.613m was expended by the Department of Aboriginal Affairs through Grants-in-aid and States Grants for health programs in 1981-82. A further \$8m was allocated to projects being funded under the Department's Aboriginal Public Health Improvement Program which began in 1981.

The Government has committed \$50m over five years to the program which will provide clean water, sewage and electricity facilities to Aboriginal communities most in need. In 1982-83 \$21.164m will be provided for grants and \$12m for the health improvement program.

The Australian Government provides funds for twenty-five independent Aboriginal Medical Services, operating mainly in urban areas as well as over forty Aboriginal alcohol rehabilitation services.

In an effort to obtain the best possible advice from Aboriginals in relation to Aboriginal health matters the Government has obtained the agreement of the National Aboriginal Conference for it to accept that advisory role.

Employment

Aboriginals usually have more difficulty finding employment than most other people in the Australian community.

In early 1981, the unemployment rate for Aboriginals was about six times higher than that for the community as a whole.

One of the most important ways in which the Government aims to encourage Aboriginal self-management is through increasing the range and level of Aboriginal employment and work experience.

Two major problems undertaken by the Government to encourage employment are the Community Development Employment Projects Scheme (CDEP) and the National Employment Strategy for Aboriginals (NESA).

CDEP provides an alternative to unemployment benefits by making money available to Aboriginal communities to allow them to pay participants for work done on projects chosen by the community.

NESA promotes Aboriginal employment mainly through community education campaigns and special services provided to Aboriginals by the Commonwealth Employment Service.

Education

Aboriginal Education Consultative Groups are active in all States and the Northern Territory, and education policy is developing in close consultation with the Aboriginal people.

Participation by Aboriginals in the development of education policies is achieved through the consultative groups and through the National Aboriginal Education Committee (NAEC).

Aboriginal teaching assistants help ensure that Aboriginal children receive appropriate education. More than 800 Aboriginal teaching assistants and seventy-two qualified Aboriginal and Torres Strait Islander teachers are practising throughout Australia. During 1982 approximately 5400 Aboriginals will be participating in various training programs.

Housing

In 1981 the Aboriginal Development Commission took over from the Department of Aboriginal Affairs responsibility for grants to Aboriginal Housing Associations.

The ADC helps administer and implement the Commonwealth's Aboriginal housing policy. The aim of the policy is to provide accommodation of a type, and at locations, which would enable Aboriginals to enjoy accepted standards of health and social well-being and pursue a lifestyle of their choice.

The provision of conventional housing is an important aim but a simpler construction, such as a camp shelter, is also available where preferred.

Aboriginal Hostels Limited, a public company limited by guarantee and funded by the Commonwealth Government, operates or funds 108 hostels, with more than 2,500 beds. Aboriginal students, trainees and young employees living away from home, aged persons, single parents and homeless persons are among those accommodated by the Aboriginal-run company.

Home-maker Services - organisations run by Aboriginals for Aboriginals - are another aspect of self-management in housing. The Services help people make the transition from what is often a simple bush shelter to the complexities of a modern house and suburban life.

Law and justice

In recognition that Aboriginals appearing in court were generally severely disadvantaged, the Australian Government financed the first Aboriginal Legal Service in 1971. Today

there are eighteen such services operating from forty-six offices throughout Australia.

The Government has also encouraged the introduction of programs to improve relationships between Aboriginals and State police forces. Several States have taken steps to recruit Aboriginal police aides and to help police officers understand better the special needs and problems of Aboriginals. Aboriginals are employed in the Northern Territory as liaison officers to assist in communication between accused persons, police officers and others.

The Australian Law Reform Commission is currently undertaking detailed consultations with Aboriginals throughout Australia on the place of Aboriginal customary law within the Australian legal system.

Homeland centres/outstation movement

One notable result of the moves towards greater self-management by Aboriginals is the impetus given to the outstation/homeland centres movement - the choice by groups to move from townships or reserves to remote areas to establish small communities with a more independent and traditional way of life.

The movement developed in northern Australia over the past decade, and there are now about 160 such communities numbering thirty to fifty people each.

Outstations/homeland centres provide a style of living that is a twentieth century adaptation of the traditional Aboriginal hunter-gatherer society. However, technology such as radio transmitters and vehicles can form part of out-station life.

Aboriginal culture

Self-management is a characteristic of activity in the development, promotion and protection of Aboriginal arts and cultural traditions.

All ten members of the Aboriginal Arts Board - one of seven boards of the Australia Council, the Australian Government's advisory body and funding agency for the arts - are Aboriginals.

With an annual budget of about \$1.5m, the board gives direct financial support to individuals and groups for traditional and non-traditional dance, music, visual arts, crafts, literature, film and video projects.

Among other activities, the board supports a number of Aboriginal organisations which market Aboriginal arts and crafts, publish Aboriginal literature, provide entrepreneurial

services for Aboriginal performing artists and protect the rights of artists in the works they produce.

Some of the organisations supported by the board are Aboriginal Arts and Crafts Proprietary Limited, the Aboriginal Culture Foundation, the Aboriginal Artists Agency, the Aboriginal/Islander Skills Development Scheme and the Centre for Aboriginal Studies in Music.

The arts are an integral part of the traditional social and spiritual life of Aboriginals. Self-management in the development, promotion and protection for some of these arts has opened new income sources to Aboriginal communities and individuals, and has enhanced the understanding in the Australian community generally of the richness of Aboriginal culture.

*

LGA DEMOGRAPHIC, REVENUE AND EXPENDITURE DATA¹Table 1

		Income less than \$8000	Income greater than \$15 000	Never attended school
1	Carnamah	43.000	17.500	.400
2	Carnarvon	56.500	12.700	2.700
3	Chapman Valley	45.800	17.700	.700
4	Coorow	53.100	17.700	.500
5	Cue	60.300	13.900	4.300
6	East Pilbara	32.500	35.600	4.400
7	Exmouth	48.900	17.600	.200
8	Geraldton	58.400	11.800	.800
9	Greenough	52.900	14.800	.700
10	Irwin	49.100	18.700	.400
11	Meekatharra	47.200	17.900	4.700
12	Mingenew	45.700	15.200	1.200
13	Morawa	54.500	14.100	.700
14	Mount Magnet	44.400	15.300	1.200
15	Mullewa	55.100	9.200	3.300
16	Murchison	49.400	4.200	6.800
17	Northampton	60.300	11.600	.700
18	Perenjari	54.300	12.000	.300
19	Sandstone	64.100	9.400	2.000
20	Shark Bay	52.100	14.300	1.200
21	Three Springs	47.000	14.100	0
22	Upper Gascoyne	55.700	9.900	4.000
23	West Pilbara	33.400	40.200	1.600
24	Wiluna	80.600	5.100	33.100
25	Yalgoo	53.200	14.900	6.100

1. Australian Bureau of Statistics, 1981 Population census;
 Australian Bureau of Statistics, Local Government,
 Western Australia 1982/83.

Table 2

	No qualifications	Technical qualifications	Tertiary qualifications	Employed %
1	72.100	19.400	2.100	55.600
2	66.000	19.600	2.200	40.600
3	80.300	12.300	.800	51.500
4	69.800	21.200	.800	53.900
5	74.900	15.400	4.100	39.800
6	59.000	24.300	3.000	51.800
7	57.700	24.200	3.600	44.600
8	67.600	18.800	2.100	39.500
9	66.300	20.900	2.000	41.400
10	67.800	17.500	1.900	50.400
11	70.000	13.900	3.500	46.800
12	74.800	14.500	.400	49.000
13	69.900	16.300	3.300	49.400
14	64.900	18.800	2.400	51.500
15	74.600	12.900	2.100	39.100
16	83.100	5.600	1.400	61.500
17	75.800	15.600	1.600	44.600
18	76.900	12.200	.800	55.100
19	65.300	20.800	2.000	44.400
20	65.700	20.600	2.500	47.600
21	73.500	16.100	2.500	54.300
22	72.000	14.900	3.400	53.000
23	60.600	28.200	3.700	52.900
24	87.700	6.500	.800	42.600
25	72.200	15.300	4.800	58.400

Table 3

	Private sector employment	Fed/State employment	LGA employment
1	81.900	11.200	3.400
2	67.700	22.500	3.000
3	84.100	8.600	3.800
4	85.200	6.000	2.300
5	71.900	12.900	9.900
6	82.200	6.100	.700
7	37.200	51.700	2.100
8	71.100	22.000	1.700
9	78.600	14.800	1.800
10	84.000	8.000	1.800
11	63.300	27.000	2.000
12	83.100	7.400	4.100
13	76.800	16.300	3.200
14	70.500	14.800	1.300
15	72.900	19.100	3.500
16	88.100	0	6.400
17	82.900	11.500	2.500
18	84.500	6.400	4.100
19	65.600	8.200	13.100
20	74.700	16.100	2.000
21	76.000	18.800	2.800
22	74.600	8.700	5.600
23	85.100	8.700	1.100
24	55.500	5.500	1.700
25	68.500	20.700	3.800

Table 4

	Unemployed	Percent Aborigines	Professional and white collar
1	1.200	3.700	30.300
2	3.700	15.700	46.900
3	.900	0	15.200
4	1.300	.900	20.600
5	3.500	26.800	36.300
6	2.500	9.400	25.300
7	1.500	.600	30.100
8	3.700	5.900	44.200
9	2.600	2.100	41.600
10	2.600	.300	20.300
11	5.000	29.000	39.300
12	1.600	5.700	13.800
13	2.200	2.900	26.200
14	1.900	8.000	30.200
15	3.000	29.400	29.900
16	0	29.100	6.300
17	2.400	2.100	28.200
18	1.100	2.700	11.900
19	1.500	8.300	26.300
20	1.400	9.500	31.100
21	1.000	.200	25.300
22	.800	19.100	15.600
23	1.500	4.300	29.700
24	1.800	83.300	14.200
25	3.500	25.100	23.000

Table 5

	Farming and Fishing	Mining	Labouring	Total expenditure head 82-83
1	33.100	16.200	2.400	816.000
2	20.900	5.000	3.700	500.000
3	70.500	.500	.500	849.000
4	53.200	13.200	1.900	958.000
5	22.200	21.300	7.600	792.000
6	2.400	55.600	2.200	322.000
7	5.800	.200	2.600	583.000
8	7.800	1.800	4.200	190.000
9	24.300	1.600	2.600	371.000
10	30.200	8.400	3.100	432.000
11	15.400	21.100	3.000	612.000
12	63.500	0	3.300	756.000
13	49.500	0	2.200	586.000
14	10.100	33.700	3.800	485.000
15	50.300	0	2.400	754.000
16	69.900	2.800	4.400	2256.000
17	44.200	1.000	2.300	779.000
18	65.200	2.100	2.000	936.000
19	36.900	6.600	4.600	2196.000
20	16.600	22.900	1.800	1819.000
21	41.900	4.200	2.800	831.000
22	51.600	11.500	0	6306.000
23	3.500	55.500	2.400	497.000
24	15.700	2.100	39.900	311.000
25	27.100	26.500	4.300	931.000

Table 6

	Roads/head 82-83	Recreation/ head 82-83	General PS/ head 82-83
1	458.000	147.000	126.000
2	273.000	68.000	58.000
3	586.000	64.000	118.000
4	631.000	84.000	131.000
5	288.000	98.000	174.000
6	133.000	54.000	50.000
7	282.000	91.000	85.000
8	60.000	57.000	25.000
9	141.000	102.000	61.000
10	187.000	63.000	74.000
11	383.000	58.000	102.000
12	316.000	129.000	199.000
13	302.000	79.000	95.000
14	204.000	93.000	95.000
15	348.000	182.000	91.000
16	1799.000	92.000	221.000
17	535.000	55.000	86.000
18	491.000	132.000	155.000
19	1366.000	112.000	302.000
20	1535.000	49.000	129.000
21	466.000	119.000	106.000
22	5603.000	17.000	469.000
23	256.000	64.000	58.000
24	181.000	42.000	44.000
25	564.000	27.000	196.000

Table 7

	Housing & Comm. Ammenities/hd 82-83	Health/hd 82-83	Total revenue/hd 82-83
1	43.000	10.600	764.000
2	64.000	11.700	617.000
3	24.000	.800	861.000
4	73.000	16.000	923.000
5	59.000	3.900	743.000
6	60.000	5.900	377.000
7	92.000	10.500	675.000
8	35.000	5.300	236.000
9	40.000	11.900	360.000
10	58.000	5.700	476.000
11	48.000	1.600	786.000
12	34.000	11.200	830.000
13	63.000	13.500	719.000
14	29.000	2.600	667.000
15	55.000	8.700	685.000
16	6.000	.600	2425.000
17	43.000	11.300	881.000
18	81.000	33.700	991.000
19	289.000	1.300	2048.000
20	43.000	23.200	2314.000
21	78.000	17.900	929.000
22	210.000	.500	6041.000
23	72.000	7.600	528.000
24	27.000	5.200	354.000
25	39.000	6.200	1090.000

Table 8

	Rates per head 82-83 \$	GP Grants/head 82-83 \$	SP Grants/head 82-83 \$
1	240.000	100.000	163.000
2	72.000	84.000	95.000
3	367.000	105.000	186.000
4	282.000	96.000	219.000
5	46.000	288.000	199.000
6	164.000	65.000	51.000
7	95.000	147.000	91.000
8	87.000	36.000	34.000
9	134.000	49.000	62.000
10	146.000	81.000	82.000
11	83.000	208.000	229.000
12	303.000	133.000	210.000
13	202.000	117.000	228.000
14	63.000	164.000	203.000
15	193.000	121.000	205.000
16	134.000	433.000	1481.000
17	184.000	89.000	123.000
18	346.000	136.000	215.000
19	188.000	497.000	858.000
20	86.000	239.000	330.000
21	280.000	109.000	155.000
22	71.000	579.000	899.000
23	211.000	73.000	75.000
24	26.000	112.000	128.000
25	137.000	319.000	410.000

Table 9

	Loans per head 82-83	Population at 30/June/83	Area of LGA (sq kms)
1	131.000	1340.000	2834.000
2	136.000	6820.000	53080.000
3	128.000	850.000	4007.000
4	163.000	1320.000	4137.000
5	333.000	360.000	13717.000
6	12.000	10110.000	377647.000
7	113.000	2210.000	2005.000
8	54.000	19610.000	28.300
9	274.000	4810.000	1739.000
10	310.000	1670.000	2223.000
11	675.000	1290.000	99393.000
12	200.000	750.000	2004.000
13	37.000	1360.000	3546.000
14	7.000	860.000	13876.000
15	76.000	1720.000	10707.000
16	0	170.000	42392.000
17	134.000	2480.000	13513.000
18	177.000	1020.000	8210.000
19	633.000	150.000	28133.000
20	200.000	650.000	26334.000
21	172.000	1100.000	2629.000
22	595.000	210.000	55734.000
23	36.000	9010.000	105647.000
24	4.000	1580.000	330429.000
25	86.000	290.000	32697.000

ABORIGINAL ELECTORAL EDUCATION PROGRAM INFORMATION PAMPHLET

1984

A National Aboriginal Conference statement on why voting is important for Aboriginal People.

In the past the majority of Aboriginal people have viewed the political system and governments with suspicion and mistrust, but today we need to reconsider some of these views.

In the past, in many instances when we have tried to work within the political system our positions and other efforts have often been ignored. Out of frustration many of us resorted to radical action in an attempt to achieve political ends. While many of us retain that suspicion and mistrust, today our voice is being listened to by governments more than ever before.

This means that we will be able to achieve more through government than before, without the fear of alienating people from our cause. We can see from recent elections that the Aboriginal vote has the potential to influence the shape of government in a way that will benefit all Aboriginal people. Already, in some areas, we have been able to elect people from our own community to government. Our vote can become a deciding factor in determining who takes their place in government, ensuring that the needs of Aboriginal people are considered more carefully.

In the future the Aboriginal vote will play a more vital role in determining the balance of power in government. This will make politicians and governments really sit up and listen to the problems and demands of Aboriginal people. But we can only achieve this if we make sure that as many Aboriginal people as possible are aware of their voting rights and how to participate.

For those of you not familiar with the voting system and those of you who have chosen not to vote in the past I urge you to reconsider your position and commend to you the electoral education program. This program will help strengthen the voice of Aboriginal people in the governments of Australia.

Lyle Munro
National Chairman
National Aboriginal Conference

The Aboriginal Electoral Education Program

This program:

Provides Aborigines with information about their electoral rights and responsibilities.

Helps Aborigines make their vote count.

The Aboriginal Electoral Education Program talks about:

The way Parliament works.

How political parties work.

The way elections and referendums are run.

What you do when you go to vote.

Having your name put on the electoral roll.

The differences between Federal and State parliaments.

How the Aboriginal Electoral Education Program Works:

There are Aboriginal and non-Aboriginal people being employed all over Australia to work in this program. They work in teams of two, travelling to different Aboriginal communities. A team can visit your town, outstation, community or town lease and talk to you about enrolment or voting. These people are specially trained, with special materials to help them explain voting and enrolment.

Further Information

If you would like more information on this program, please ring Canberra 062-714423 (reverse charge Calls can be made through the operator); or write on the form below and post it back to the Australian Electoral Commission.

How to **arrange a** visit

If you would like a team to visit your community, please fill out the form below and send it to:

Aboriginal Electoral Education Program
Australian Electoral Commission
PO Box E201
Queen Victoria Terrace
CANBERRA ACT 2611

Name of Community:

Address: _____

Contact Person:

Position in Community:

Telephone Number:

I would be interested in a visit from an Aboriginal Electoral Education Program Team []

I would like more information on the Aboriginal Electoral Education Program []

THINKING OF BECOMING A SHIRE COUNCILLOR?

Because of changes to the Local Government Electoral laws, any person who

owns or lives in a rateable property (this includes a State Housing Commission home)

is on the joint Commonwealth/State Electoral Roll

can stand for election as a Shire Councillor. Details on further conditions can be obtained from any Shire Office.

Nominees must pay a \$40 deposit.

Nomination forms are available from all Shire Council Offices.

Nominations for the 1985 elections open on 22 March and close on 4 April. The Local Government elections will be held in the first week of May.

Those interested in standing for election can seek assistance and guidance from their nearest NAC office.

HAVE A SAY IN YOUR TOWN OR SHIRE

Everyone now has the right to vote in Local Government Elections, be sure you are enrolled

If your name is on the joint Commonwealth/State Electoral Roll you can vote in the next Local Government elections.

You can check to see if your name is on the Electoral Roll at your nearest Post Office or Shire Office.

If you are not enrolled and you want to vote you need to fill out an Electoral form. You can get this from your nearest Post Office.

You must enrol before 22 February if you want to vote in the Local Government Elections in May 1985.

For further information contact your nearest NAC office.

SECTIONS OF CONSTITUTIONS OF INCORPORATED ABORIGINAL
ASSOCIATIONS IN THE STUDY REGION RELATING TO OBJECTIVES OF
THE ASSOCIATION

1. Associations incorporated under State legislation
Associations Incorporated Act 1893)

Jigalong Community Incorporated

- (a) to promote the overall community development of the Community;
- (b) to contribute to the self support of the Community by the development of viable economic projects and industries;

to promote adequate education, vocational training, health services, employment and housing for the Community;

- (c) to assist and encourage the Community to develop an effective system of local self-government upon its own lands;
- (d) to assist and encourage the individual members of the Community to preserve and develop a satisfying sense of community identity;
- (e) to foster mutual trust and friendly relationships between the Community and the community at large.

(f) Noualla Group Incorporated

- (a) to promote the overall community development of the Community;
- (b) to achieve the total self support of the Community by the development of viable economic projects and industries;
- (c) to hold shares in any company or companies formed for the purpose of carrying out the objects of the Association;
- (d) to assist and encourage the Community to develop an effective system of self-government upon its own lands;
- (e) to assist and encourage the individual members of the Community to preserve and renew their traditional culture;

- (f) to foster mutual trust and friendly relationships between the Community and the community at large;
- (g) to receive and expend grants of money from the governments of the State and/or the Commonwealth;
- (h) to provide dwelling houses for the Community;
- (l) to maintain and repair any buildings provided by the Association and to employ or otherwise engage persons to assist in that work;
- (j) to hold any estate or interest or licence in land and to deal with the same in such manner as shall be allowed by this Constitution and the law affecting the same from time to time;
- (k) to do all such other lawful things as are incidental or conducive to these objects.

Nangganawili Community Incorporated

- (a) to promote the welfare and development of the Community;
- (b) to train and educate the members of the Community in primary production and marketing of stock, meat and meat products, maintenance of bank and business accounts and keeping of basic records;
- (c) to arrange for the provision of education, educational training, employment, housing, health and other services for the members of the Community;
- (d) to foster the preservation and development of traditional and other cultural and recreational activities.

Koorda Club Incorporated

The Club exists for the general purpose of improving on practical lines the interest and participation of Aboriginal people in the progress and development of the shires of Carnarvon and Upper Gascoyne; and in particular for providing opportunities and means (including finance) for training and gaining experience, skill and aptitude for its members in such participation, and ultimately in management and administration (for suitable Aborigines) in Aboriginal or other undertakings and employment; and to provide accommodation for its members and employees; generally, for the future involvement of Aborigines in all phases of Aboriginal and other undertakings, including health, education and training, housing and employment within such shires and elsewhere.

Bundi Club of Meekatharra Incorporated

The objects for which the Association is formed are:

- (a) to promote the overall community development of the Aboriginal population of the Meekatharra district;
- (b) to achieve the self-support of the members by the development of economic projects and industries;
- (c) to insure the provision of adequate education, vocational training, health services, employment and housing for the Aboriginal population of the Meekatharra district;
- (d) to assist and encourage the Aboriginal population of the Meekatharra district to develop an effective system of local self-government upon its own lands;
- (e) to assist and encourage the individual members of the Aboriginal population of the Meekatharra district to preserve and develop a satisfying sense of community identity;
- (f) to foster mutual trust and friendly relationships between the Aboriginal population of the Meekatharra district and the community at large, and for the purpose of carrying out these objects.

Aboriginal Boomerang Council Incorporated

The objects for which the Council is established are:

- (a) to promote the interests and the development of the Aboriginal people and to preserve the Aboriginal culture;
- (b) to cooperate with, and to coordinate the activities of non-governmental organisations having aims or objects similar to the objects of the Council;
- (c) to cooperate with governments, Commonwealth, State and Local, Statutory Authorities and government instrumentalities and to assist them and each of them in all efforts designed to advance the interests and the development of the Aboriginal people and the Aboriginal culture;
- (d) to encourage the study by Aborigines and their friends of Aboriginal history, languages, songs, dances, painting - myths stories, traditions, customs and laws, and to utilise as fully as possible such University, Museum and other educational, institutional and private resources and facilities as may be available from time to time for use in connection with these studies;

- (e) to critically examine all statutes, regulations and bylaws which have any bearing upon the lives of the Aborigine with a view to correcting misconceptions and eliminating discrimination and other injustices affecting Aborigines;
- f to draw attention to, promote the understanding of, and seek the implementation of solutions to, problems affecting the Aboriginal people.

Diandi Sporting Association Incorporated

- (a) to further the advancement and well being of Aborigines in Australia generally and in the Mullewa area in particular;
- (b) to preserve and promote the culture and heritage of Aboriginal people;
- (c) to establish and maintain amenities for the benefit of Aboriginal people;
- (d) to advance the cause of co-operation and friendship between all Australian people irrespective of their colour, race or beliefs;
- (e) to encourage and promote sporting, social and recreational activity amongst the Aboriginal people of Mullewa.

Wannar Club Incorporated

- (a) to further the advancement and well being of Aborigines in Australia generally and in the Mt Magnet area in particular;
- (b) to preserve and promote the culture and heritage of Aboriginal people;
- (c) to establish and maintain amenities for the benefit of Aboriginal people;
- (d) to advance the cause of co-operation and friendship between all Australian people irrespective of their colour, race or beliefs;
- (e) to encourage and promote sporting, social and recreational activity amongst the Aboriginal people of Mt Magnet.

2. Associations incorporated under Commonwealth Legislation
(Aboriginal Councils & Associations Act. 1976)

Thoothoo Wandu Club Aboriginal Corporation

- (a) to further the advancement and well-being of
Aboriginals in Australia generally and in the North
Central area of Western Australia in particular;
- (b) to preserve and promote the culture and heritage of
Aboriginal people;
- (c) to establish and maintain amenities for the benefit of
Aboriginal people;
- (d) to advance the cause of co-operation and friendship
between all Australian people, irrespective of their
colour, race or beliefs;
- (e) to encourage and promote sporting, social and
recreational activity amongst the Aboriginal people;
- f to help to bring about the self-support of members of
the Association by the development of economic projects
and industries; and
- (g) to receive and spend grants of money from the
Government of the Commonwealth of Australia or the
State, or from other sources.

Mungallah Community Aboriginal Corporation

- (a) to further the advancement and well-being of
Aboriginals in Australia generally and in the Boor
Street Housing Development of Carnarvon, Western
Australia, in particular;
- (b) to preserve and promote the culture and heritage of
Aboriginal people;
- (c) to establish and maintain amenities for the benefit of
Aboriginal people;
- (d) to advance the cause of co-operation and friendship
between all Australian people, irrespective of their
colour, race or beliefs;
- (e) to encourage and promote sporting, social and
recreational activity amongst Aboriginal people;
- (f) to help to bring about the self-support of members of
the Association by the development of economic projects
and industries; and

- (g) to receive and spend grants of money from the Government of the Commonwealth of Australia or the State or from other sources.

Marddu Council Aboriginal Corporation

- (a) to improve conditions in housing and employment;
- (b) to develop a co-operative piggery;
- (c) to purchase and/or build an arts, crafts and meeting centre; and
- (d) to provide recreation facilities.

Yadgalah Aboriginal Corporation

- (a) to further the advancement and well-being of Aboriginals in Australia generally and in the Shark Bay area in particular;
- (b) to preserve and promote the culture and heritage of Aboriginal people;
- (c) to establish and maintain amenities for the benefit of Aboriginal people;
- (d) to advance the cause of co-operation and friendship between all Australian people, irrespective of their colour, race or beliefs;
- (e) to encourage and promote sporting, social and recreational activities for the Shark Bay community.

Geraldton Sporting Aboriginal Corporation

- (a) to promote the participation of Aboriginal people in all forms of sporting activities;
- (b) to assist and co-ordinate the actions of all Aboriginal sporting groups in the North Central Area;
- (c) to assist the development of junior sporting activities and encourage the participation of juniors in all forms of sport;
- (d) to assist and encourage the development of junior sports stars in all aspects of sports;
- (e) to promote Aboriginal sportsmanship in the North Central Region; and
- (f) to promote an Annual Aboriginal Football Carnival involving Aboriginal League Players from W.A.F.L. Clubs and surrounding country towns.

Kuwinywardu Aboriginal Resource Unit Aboriginal Corporation

- (a) to co-ordinate the activities of its members insofar as those activities are in furtherance of these objects;
- (b) to provide accounting, medical and other community services for its members;
- (c) to support the social development of its members in all ways;
- (d) to help to bring about the self-support of its members by the development of economic projects and industries;
- (e) to support education, job training, health services, work and housing for its members;
- (f) to help and encourage its members to manage their affairs upon their own lands;
- (g) to help and encourage its members to keep and renew their traditional culture;
- (h) to help to build trust and friendship between its members and other people;
- (i) to participate with other Aboriginal associations in projects for their mutual benefit; and
- (j) to receive and spend grants of money from the Government of the Commonwealth, or of the State, or from other sources.

Walgoo Widgee Association Aboriginal Corporation

- (a) to provide a rehabilitation centre for alcoholics, enabling them to regain health and self respect;
- (b) to minimise and, where possible, prevent the occurrence of alcohol misuse among the Aboriginals;
- (c) to establish facilities and services for the treatment and assistance primarily for Aboriginals and other members of the Community; to devise programmes for their rehabilitation;
- (d) to educate Aboriginals and others on physiological, legal and social dangers of alcohol misuse;
- (e) it is important that the whole community be given the responsibility of overcoming the problem;
- (f) no alcohol or persons under the influence of alcohol will be permitted on the premises;

- (g) to be staffed and controlled by local Aboriginals as much as possible in the delivery of the services and assist in up-grading their skills;
- (h) to provide treatment and rehabilitation for Aboriginal alcoholics (rather than those which merely provide shelter) in order to minimise the extent of institutional care;

individuals must acknowledge need for assistance and be willing to participate in the programme;

to co-ordinate and utilise services provided by state or other voluntary agencies to ensure full use of professional staff;
- (k) need for extended community support and co-operation;
- (l) to educate the adults and children into the problems and dangers of excess alcohol;
- (m) co-ordinated educational programmes must be instituted; these should all be tied in by the central alcohol services;
- (n) activities for re-education and socialisation to be incorporated into the programme;
- (o) to establish a re-training programme, either in a 'Trade' or equivalent training, to allow them to take their place in all levels of industry.

North Midlands Aboriginal Corporation

- (a) to further the advancement and well-being of Aboriginals in Australia generally and in the North Midlands area in particular;
- (b) to preserve and promote the culture and heritage of Aboriginal people;
- (c) to establish and maintain amenities for the benefit of Aboriginal people;
- (d) to advance the cause of co-operation and friendship between all Australian people, irrespective of their colour, race or beliefs; and
- (e) to encourage and promote sporting, social and recreational activity amongst the Aboriginal people of Morawa/Mingenew/Perenjori/Three Springs and Carnamah/Coorow.

Marrida Aboriginal Corporation

- (a) to conduct and carry on the business of Cray-pot manufacturing;
- (b) to sell Cray-pots to fishing industries in and around the shire of Geraldton and any other fishing port in WA that the members of the Co-operative may from time to time decide;
- (c) to promote the welfare and development of the cray-pot making industry;
- (d) to employ part-time or full-time any person or persons, company or organisations to assist the co-operative in the carrying out of its objects;
- (e) to apply for, receive and administer any grant or loan made to the Marrida Aboriginal Corporation under any state or federal legislation or from individual or private organisations;
- (f) to make By-Laws, Rules and Regulations for the due maintenance and control and conduct of persons in the employ of or under the care and control of the co-operative;
- (g) to do all such other lawful acts, matters and things as may be incidental to or conducive to attainment of or execution of the objects of the association and/or the management of the association and its property; and
- (h) to do all such things concerning the Fishing Industry that the member of the co-operative may from time to time decide to do.

Yuella Fabrications Aboriginal Corporation

- (a) to support the social development of its members in all ways;
- (b) to help to bring about the self support of its members by the development of economic projects and industries;
- (c) to support education, job training, health services, work, and housing for its members;
- (d) to help and encourage its members to manage their affairs upon their own lands;
- (e) to help and encourage its members to keep and renew their traditional culture;
- (f) to help to build trust and friendship between its members and other people;

to participate with other Aboriginal Associations in projects for their mutual benefit;

to receive and spend grants of money from the Government of the Commonwealth or of the State or from other sources.

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