

INTRODUCTION:

Mornington Island is situated in the south eastern corner of the Gulf of Carpentaria, within the Queensland State boundary. The Island is home to over 900 Aboriginal people and between 60 and 70 non Aboriginal people. The centre of the population is Gununa.

Federal Race Discrimination Commissioner Irene Moss initiated an investigation into conditions on Mornington Island after receiving a petition from the Island's Aboriginal community.

The petition related to a specific incident involving police and local people which took place in September 1990 (see Section 2).

Staff of the Human Rights and Equal Opportunity Commission visited Mornington Island on three occasions between March 1991 and October 1992. Commissioner Moss visited in November 1991.

The incident relating to Aboriginal/police relations which sparked the Commissioner's investigation cannot be viewed in isolation from broader issues which are of fundamental importance to the people of Mornington Island.

Some of these issues are specific to Mornington Island. However a number of the concerns canvassed in this Report are relevant to many other Aboriginal communities, in Queensland and throughout Australia.

The Report is critical of many aspects of the way in which affairs are conducted on Mornington Island. Such criticisms are made in the hope of effecting positive social and political change. The view developed in this Report is that circumstances on Mornington Island would not be tolerated elsewhere in non- Aboriginal Australia.

SECTION 1: BACKGROUND

Missionaries administered Mornington Island between 1912 and 1978. In 1978 the Queensland Minister for Aboriginal and Torres Strait Islander Affairs announced that his department would take over the administration of Mornington Island and nearby Aurukun from the Uniting Church. In the face of national and local opposition, the Government introduced the Queensland Local Government (Aboriginal Lands) Act 1978. The Act created Mornington Island and Aurukun as local government authorities with elected councils.

The report points out that the shire model was one imposed on Mornington Island people from outside and that it was introduced to stem Aboriginal resistance to State government interference. Despite apparent adoption of the forms of local government, control remains substantially with the State Government. Shire clerks cannot be appointed without prior approval of the Minister. State police became resident on the island. The Act provided even less autonomy for community justice mechanisms than existed in other Queensland communities under the Deed of Grant In Trust legislation.

The report concludes that the processes of colonialism have left the people of Mornington Island with a legacy that in many ways militates against the exercise of self determination. Extreme levels of control exercised at various times by missionaries and government have not been conducive to the development of indigenous social and political control. More recently there has been little serious attempt by government to ascertain the views of the people of Mornington Island on their preferred form of political administration.

Recommendations in Section 1 include:

* that the principles of self determination be applied in future dealings between State and Federal bodies and the people of Mornington Island.

SECTION 2: THE INCIDENT

On 22 September 1990 a police vehicle collided with two Aboriginal residents on a roadway in Gununa. According to a number of witnesses at the scene, the constable driving the car drove off without alighting or rendering assistance. Both victims lost consciousness and were taken to hospital.

Shortly after the incident between 120 and 200 people gathered outside the police station. Police reinforcements were flown in from the mainland. Four people were subsequently charged with a number of offences involving property damage.

A complaint against the police from the Aboriginal and Islander Legal Service was referred to the Criminal Justice Commission. The CJC concluded that the internal police investigation of the incident was satisfactory - that there was no evidence that the officer involved had driven in a dangerous manner or had failed to render assistance to the injured parties.

The Report concludes that the police investigation and the investigation by the CJC were inadequate. In addition there are serious concerns about the way in which the CJC and the police deal with complaints from Aboriginal and Torres Strait Islander people.

Recommendations include:

- * that the Queensland Police Service and the CJC acknowledge to the victims that the police investigation of the incident was inadequate and that reliance by the CJC on the police version of the incident may have perpetuated an injustice against them.
- * that the Queensland Police Service establish protocols for informing complainants (or their legal representatives) of the progress of a complaint at regular intervals.

SECTION 3: CRIMINAL JUSTICE ISSUES

3.1 THE NATURE OF OFFENCES: charges of drunkenness constitute the major reason for an extraordinarily high level of criminalisation on Mornington Island. Most other charges are property related, many involving the acquisition of alcohol. There are surprisingly few charges relating to interpersonal violence (despite reports of high levels of domestic violence.) In 1991, some 16 per cent of charges related to "street offences".

3.2 STATE POLICE: at March 1991 there were four State police officers and six community police officers to oversee a population of 1000. This is a considerably higher level than one would expect in a non - Aboriginal community of the same size.

The Commissioner identified major problems in the relationship between the State police and the community. Serious concerns included the lack of appropriate training for police posted to the Island and police failure to enforce the law in regard to domestic violence. There were a number of allegations concerning police assaults, particularly in the watchhouse.

3.3 ABORIGINAL COMMUNITY POLICE: it has been common practice for community police on the Island to arrest and detain people for drunkenness. This practice was unlawful. Also of major concern to the Commissioner was the lack of training for community police, including training in their responsibilities and duty of care towards people in custody. The coronial inquest into the death of an Aboriginal resident, Craig Sandy, in October 1990 in the Mornington Island watchhouse raised a number of these issues.

3.4 THE WATCHHOUSE: the Commissioner considers that conditions at the Mornington Island watchhouse are totally unacceptable. Replacing the watchhouse has been proposed since before 1990 but at November 1992 no work had started. It is understood that there are currently no funds available for a replacement building.

3.5 THE NEED FOR A SOBERING UP CENTRE (see recommendation below)

3.6. RACISM AND SEXISM IN THE ADMINISTRATION OF JUSTICE: numerous incidents were reported to the Commissioner and her staff of alleged assaults on Aboriginal people by non Aboriginal people which failed to result in any police intervention. Of particularly serious concern is the apparent lack of intervention in relation to situations of sexual and/or physical violence against Aboriginal women.

Recommendations include:

- * that the Queensland government as a matter of urgency implement legislation to decriminalise public drunkenness.
- * that the Queensland government as a matter of urgency investigate the establishment of a sobering up centre on Mornington Island.
- * that police on Mornington Island implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody and proceed against people charged with obscene language by way of summons rather than arrest.
- * that the Queensland Government ensure that the recommendations of the coronial inquiry into the death of Craig Sandy are implemented.

SECTION 4: YOUNG PEOPLE, JUVENILE OFFENDING AND JUVENILE JUSTICE

Distinctive problems facing young people on the Island include over - representation on criminal charges, under employment and the breakdown in their relationship to traditional Aboriginal values.

There are specific problems with gaining young people's involvement in CDEP (Community Development Employment Program) work projects, particularly with the 15 - 18 age group. This same age group appears to be most responsible for break and enters on the Island.

On a number of occasions 15 and 16 year old children have been held in the Mornington Island watchhouse for varying periods of time. The Commissioner was also shown evidence of Aboriginal juveniles being held with adults in the watchhouse in May 1990.

There are currently no custodial facilities on Mornington which are suitable for young people. The Report notes that the detention of Aboriginal and Torres Strait Islander children in police cells is inappropriate, that the Mornington Island watchhouse is not a safe custodial environment even for adults and that the watchhouse does not allow for adults to be properly separated from juveniles. These conditions breach the UN Standard Minimum Rules for the Administration of Juvenile Justice.

An important development during the course of the Commissioner's investigation was the establishment of an elders' scheme for dealing with juvenile offending. The Report also notes the potential impact of the new Juvenile Crime Strategy in Queensland and the services which are provided for young people on the Island by the Department of Family Services.

Recommendations include:

* That the holding of Aboriginal juveniles in the watchhouse at Mornington Island is contrary to recommendation 242 of the Royal Commission into Aboriginal Deaths in Custody and should cease immediately.

SECTION 5: DEVELOPING CRIME PREVENTION AND COMMUNITY JUSTICE MECHANISMS

The Report recommends that the Mornington Shire Council develop a crime prevention strategy and that the Council and other interested groups approach the State Government's Community Justice Program for assistance in developing community based dispute resolution programs.

SECTION 6: THE PROVISION OF GOODS AND SERVICES

There were many complaints made to the Race Discrimination Commissioner and her staff concerning the availability and provision of services. The complaints referred to alleged discrimination and racism in the way services were provided, the limited availability of some services and the inappropriateness of some services.

6.1 HEALTH: at the time of the Commission's investigation all medical staff at the Island's ten bed hospital were non Aboriginal apart from one assistant nurse. None of the staff received training in Aboriginal and Torres Strait Islander issues prior to their placement on Mornington. The domestic staff are all Aboriginal.

There appeared to be little encouragement or incentive for Aboriginal assistant nurses in terms of training.

Concern was expressed with the inadequacy of services relating to eye and ear specialists.

A major issue was the fact that Aboriginal women are forced to go to Mt Isa for childbirth. There is deep concern that among Aboriginal women that this practice removes birth rights and land rights, weakens the traditional functions of older Aboriginal women in the birthing process and involves considerable hardship in terms of separation from family for extensive periods.

The Commissioner recognises the medical reasons for this practice but is concerned that the blanket definition of "at risk" in Aboriginal communities is offensive and based largely on administrative convenience.

The evidence raises serious concern about the lack of understanding of Aboriginal cultural issue shown by some in the medical/ nursing profession.

Alcohol abuse is the major health issue on Mornington Island, according to those working in the Aboriginal Health Program.

The health care approach on the Island appeared to be strongly hospital centred, although the Report notes positive moves towards community health and preventative strategies during the course of the Commission's investigation.

However it is unacceptable that remote Aboriginal and Torres Strait Islander communities, and Mornington Island in particular, do not have the community health services available to other Australians.

6.2 ALCOHOL: Mornington Island's economy could be referred to as alcohol driven. Alcohol generates the Island's only profit making activity while at the same time generating a substantial amount of social, medical and justice problems.

More than one and a half million dollars were spent on alcohol at the canteen in 1990 - 91. The Council made a profit of over \$800,000. However the lack of funding priority given by the council for community welfare projects is a matter for serious concern for many members of the community. There is a lack of Council support for alcohol rehabilitation.

6.3 THE POST OFFICE AND COMMONWEALTH BANK: The Commission heard many complaints from the Aboriginal community about discrimination in the provision of these services. Commission staff witnessed differential treatment first hand. A non Aboriginal person was responsible for providing both services.

Since the first two HREOC visits the location and administration of the Post Office and Commonwealth Bank have been separated. New postal staff have received some training.

6.4 HOUSING: housing supply on Mornington is essentially a monopoly controlled by the Council. There were many complaints to HREOC officers about inequitable rental and electricity charges and failure to effect repairs.

Many houses on the Island are substandard and would not be classified as fit to live in or as in a reasonable state of repair if they were anywhere else in Australia other than an Aboriginal and Torres Strait Islander community.

6.5 The STORE: there were complaints concerning the excessive cost of food at the shop.

6.6 EDUCATION: the participation rate at the high school appeared to have declined from 70 per cent in 1990 to 30 per cent in October 1992. This decline should not be seen as a rejection of education itself but a rejection of the inappropriate way it is structured and delivered.

Recommendations include:

- * that the Regional Health Authorities establish consultative mechanisms to allow input from Aboriginal and Torres Strait Islander people in remote areas such as Mornington Island.
- * that the Regional Health Authority establish a birthing centre on _Mornirujton.,
- * that the Council initiate a process of community consultation in relation to the consumption and sale of alcohol on the Island
- * that Council review its policy of collecting information on individual alcohol consumption so as to comply with privacy guidelines and principles.
- * that Council recognise it has obligations as a landlord to ensure that premises are fit to live in and abide by its obligations as a landlord under the Residential Tenancies Act (1975) Old.
- * that the Education Department re - evaluate its current strategies on Mornington Island and consider, in conjunction with the community, the most appropriate way of providing services to the outstations.

7. EMPLOYMENT

The lack of employment and training opportunities for Aboriginal people on Mornington Island is cause for serious concern.

During the 18 month period of the inquiry, all key decision making positions (including the shire clerk, deputy shire clerk and the accountant) were held by non Aboriginal people. Very few of the approximately forty Council positions were held by Aboriginal people. There is a clearly a consistent overall bias against the employment of Aboriginal people.

There was strong resentment about the lack of employment opportunities and incentives for Aboriginal people on the Island. Generally, Aboriginal people are working for the dole (i.e. on the Community Development Employment Program - CDEP) while non Aboriginal people are in the paid positions.

There a number of major criticisms of the administration of the CDEP on the Island.

The Report concludes that the shire model, ostensibly established to provide for self determination, has on the whole simply provided non Aboriginal people with employment and prevented self determination by leaving Aboriginal people unskilled and uneducated.

Recommendations include:

- * that the Council reconsider its employment strategies with a view to eliminating possible breaches of the Racial Discrimination Act.

- * that the CDEP not be used as a cheap pool of unskilled labour for functions which are properly those of local government and that a review of CDEP on the Island be conducted as a matter of urgency.

8. CHANGE FOR THE FUTURE

The Queensland Government established a Legislation Review Committee in August 1990 to examine legislation governing Aboriginal communities.

The Committee's Report, released in November 1990, found that the legislation, including the Local Government (Aboriginal Lands) Act 1978 which covers Mornington Island, 'does not provide Aboriginal and Torres Strait Islander residents with a culturally appropriate structure for government.'

The State Government has never formally responded to the Report.

The Queensland government and in particular the Department of Family Services and Aboriginal and Islander Affairs must accept some responsibility for the unjust and unacceptable situation on Mornington Island. The Government has failed to introduce legislation which would enable Aboriginal and Torres Strait Islander people to take greater control of their affairs.

Recommendations include:

- * that the Queensland Government respond formally to the Legislation Review Committee's recommendations to introduce self government in Aboriginal and Torres Strait Islander communities.
- * that the people of Mornington Island be given the opportunity to consider, discuss and implement a community government best suited to their needs.

GENERAL FINDINGS OF THE REPORT

In many respects the people of Mornington Island live in a social, economic and political situation which is neo - colonial and which would never be acceptable to non - Aboriginal people. There is a degree of control over aspects of day to day life which seems extraordinary by the standards of citizenship and social participation which most Australians enjoy.

The current form of "self government" on the Island is totally inappropriate and serves to exclude the Aboriginal people from the decision making process. It was imposed on the Island without consultation. All key positions of power, decision making and administration are in non Aboriginal hands: including health, education, justice, shire administration, civil engineering and trades employment and most other service delivery positions.

The structure of decision making on the Island encourages paternalism. The rapid turnover of non - Aboriginal staff in key positions means there are often very few opportunities for such paternalism to be challenged.

The Commission has observed some improvements and positive changes during the period of this investigation. However many of these changes are tenuous.

Real and lasting improvements will require full implementation of this report's recommendations. These recommendations embody two basic principles:

* that Aboriginal and Torres Strait Islander people have a right to self determination

* that Aboriginal and Torres Strait Islander people have a right to the same level of services which exist in other parts of Australia.

The conditions on Mornington Island are inconsistent with either of these principles.