

The Aboriginal and Torres Strait Islander Child Placement Principle is about self determination

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The Aboriginal and Torres Strait Islander Child Placement Principle has been the policy guiding the placement of indigenous children in most Australian child protection jurisdictions for around fifteen years. The Principle requires the involvement of Aboriginal and Torres Strait Islander community representatives in decision making concerning indigenous children, and ensuring that alternative care placements of Aboriginal and Torres Strait Islander children are with Aboriginal and Torres Strait Islander careproviders.

Most jurisdictions still have a significant number of Aboriginal and Torres Strait Islander children placed with non-indigenous careproviders, and community based Aboriginal and Islander child care agencies continue to express dissatisfaction about the nature and level of consultation which occurs when welfare departments are taking action to protect indigenous children.

This paper, which was presented at the IFCO conference in Melbourne in July 1999, examines why there has been such limited improvement in Child Placement Principle outcomes. Work undertaken in Queensland to address the over representation of Aboriginal and Torres Strait Islander children in the child protection system will be outlined, from both a departmental and community perspective. The paper argues that if strategies for addressing these issues are not located within a framework of self determination for Aboriginal and Torres Strait Islander people, then they will not work.

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This is a joint paper that includes the views of the Department of Families, Youth and Community Care and the Aboriginal and Islander Child Care Agencies (AICCAs) in Queensland. It shows the history of the relationship between the AICCAs and the Department in implementing the Child Placement Principle. It shows our willingness to work together and to try new ways of working. Even if things don't always happen the way we would like them to, we respect each other's views. We both recognise that better child protection services for Aboriginal and Torres Strait Islander families requires a partnership, and that we both have roles to play.

First, I will talk about the Child Placement Principle and self-determination for Aboriginal and Torres Strait Islander people.

Self-determination to us means having the means and decision-making powers to look after our own children – something many of us have been denied for two centuries.

The Child Placement Principle as a policy for government (soon to be law) in Queensland presents government with a framework to support self-determination for the Aboriginal and Torres Strait Islander community in child protection, that is, supporting us to look after our own children and our families.

But simply enacting the Child Placement Principle does not mean that we achieve self-determination. We will measure the government's commitment to self-determination by how well or poorly it supports and funds the

implementation of the Child Placement Principle.

Before I talk at length about the Child Placement Principle we need to know why it is important to us as Aboriginal and Torres Strait Islander people.

HISTORY

To understand the present situation of Aboriginal and Torres Strait Islander peoples, it is necessary to understand what has happened in the recent past.

Prior to 1788, Aboriginal and Torres Strait Islander communities comprised close knit, extended family units. Responsibility for education, child rearing and discipline lay with all adults as a group, with some members having more significant roles than others.

After 1788, lifestyles were drastically changed forever. In the 1800s governments legislated for the forced removal of Aboriginal people onto government reserves or church missions. Many traditionally owned Torres Strait Islands were gazetted as reserves or missions. People were classified as 'half caste', 'quarter caste', 'full bloods' and so on. The government removed 'part-Aboriginal' children to institutions or non-Aboriginal families often hundreds of kilometres from their families. The reason for this action was the belief by government authorities of the time that these children would and should assimilate into European society.

The previous policies of 'protection', 'assimilation' and 'integration' (in force until the mid 1960s in Queensland) have had a devastating impact on Aboriginal and Torres Strait Islander people and

communities. The separation of children from their families over many generations has left a legacy of grief, sadness and loss of identity and culture for many.

CURRENT SITUATION IN QUEENSLAND – WHAT THIS HISTORY MEANS TODAY

What this history means today is that poverty, discrimination, poor health standards, and high levels of unemployment have resulted in very high levels of government intervention in indigenous family life and significant over representation in the child welfare system of Aboriginal and Torres Strait Islander children.

The Queensland regional report for the Royal Commission into Aboriginal Deaths in Custody stated:

A large proportion of Queensland's Aboriginal and Torres Strait Islander population has experienced institutionalisation either on a mission or a government settlement or community. Although there were opportunities on some establishments to return some of their heritage, generally the experience has been highly destructive of their culture.

Subjected to many changes, these people have been left insecure and unsure of their identity. State paternalism has saturated every piece of legislation dealing with Queensland's Aboriginal and Torres Strait Islander peoples. The effect has been to slowly extract any power that these people have had over their lives.

It is a situation to which four or five generations have been exposed, effectively crippling initiatives and self esteem. The traditional authority of elders has been replaced with the authority of the state.

The Royal Commission recommended that the Child Placement Principle, and the essential role of Aboriginal Child Care Agencies, be recognised in legislation.

The Human Rights and Equal Opportunity Commission's Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (1997) exposed the hardships and feelings of loss and grief experienced by people affected by forcible removal policies. Those policies have left a legacy today in undermining parenting skills within

Aboriginal and Torres Strait Islander communities. *Bringing them home*, the report of the Inquiry, also recommends that the Child Placement Principle be recognised in legislation.

These two reports have made a significant contribution to the broader community's understanding that Aboriginal and Torres Strait Islander children have a need for, and a right to know of, their own families and culture. Denial of this right has tragic consequences. Loss of identity and culture have been linked to high rates of drug and alcohol abuse, suicide rates, and over representation in child welfare and corrections systems.

Self-determination to us means having the means and decision-making powers to look after our own children – something many of us have been denied for two centuries.

THE CHILD PLACEMENT PRINCIPLE

The Aboriginal and Torres Strait Islander Child Placement Principle has been the policy guiding decision-making and placements for indigenous children in most Australian child protection jurisdictions for around fifteen years.

The underlying principles of the Child Placement Principle are as important and relevant today as they have ever been. There are four main parts of the Child Placement Principle:

1. The Principle is that Aboriginal and Torres Strait Islander children have a right to be brought up within their own family and community. It protects the rights of future generations of Aboriginal and Torres Strait Islander children from the devastating effects of removal from family and culture. It aims to preserve and enhance indigenous children's sense of identity as Aboriginal or Torres Strait Islander through maintaining children within their own family, community and

culture. It seeks to strengthen family life through maintaining the value of the extended family, kinship arrangements, and culture in raising Aboriginal and Torres Strait Islander children.

2. The Principle sets placement preferences to be followed when placing an indigenous child in alternative care. The first preference is for them to be placed with extended family or, if that is not possible, with other indigenous foster carers.
3. When Aboriginal and Torres Strait Islander children are in alternative care placements they have a right to continuing contact with their parents and family members.
4. AICCAs should be consulted about all decisions concerning indigenous children in the child protection system

ABORIGINAL AND ISLANDER CHILD CARE AGENCIES

The Department's policy is to work together with Aboriginal and Torres Strait Islander community organisations to address over representation. The main agencies are the Aboriginal and Islander Child Care Agencies (AICCAs) and the Remote Areas Aboriginal and Torres Strait Islander Child Care (RAATSICC) network of services.

AICCAs are Aboriginal and Torres Strait Islander child and family welfare agencies which were established in the early 1980s throughout Australia to:

- provide assistance to prevent possible disintegration of Aboriginal and Torres Strait Islander families;
- ensure where Aboriginal children and Torres Strait Islander children are separated from their families, that contact is maintained between family members;
- recruit, train and support culturally appropriate foster carers for Aboriginal children and Torres Strait Islander children;
- offer advice and support to Aboriginal and Torres Strait Islander families requiring assistance, particularly in emergency situations regarding children.

The vision statement of the Queensland State Council of AICCAs (about 10 agencies) states:

Aboriginal and Torres Strait Islander communities exercise their sovereign right to control their own affairs and determine their own future ... and that governments have diminished responsibility for the care and protection of Aboriginal and Torres Strait Islander children.

Governments working in collaboration with indigenous community agencies such as AICCAs is a fundamental aspect of self determination. Involving AICCA in child protection matters ensures:

- that the best service possible is provided to Aboriginal and Torres Strait Islander children and their families and that the needs of the child and family are attended to within their social and cultural context;
- that traditional family life is not undermined, but rather, the capacity of communities to care safely for children is enhanced;
- that the maximum amount of information is available to the Department about a family's situation. This assists in ensuring that assessments and decision-making are well informed and that intervention is culturally appropriate;
- a more sensitive and informed relationship with Aboriginal and Torres Strait Islander clients and greater family participation in the planning process at all stages of intervention. The quality of the relationship between the Department and the family is crucial to achieving cooperation. Parents are more likely to feel able to participate, provide information and 'hear' information if AICCA is also involved. It is important to note that AICCA involvement is additional to, not instead of, family participation;
- that, since the history of fear and mistrust felt by Aboriginal and Torres Strait Islander people towards the Department gives rise to difficulties in addressing child protection matters, AICCA is able to advocate for Aboriginal and Torres Strait Islander clients and reassure them about processes, so they are more likely to

feel able to participate in decision-making;

- a broad perspective on abuse or neglect. The child's protection from abuse or neglect cannot be separated from the child's need to grow up in their own culture, being aware of their identity and place in the family. Attitudes to child-rearing differ from culture to culture and these differences must be understood within their context;
- that the family is linked to a helping agency. AICCAs often have a personal knowledge of clients and their families and can provide support and understanding of the client's capacity for change, when linked to appropriate services and resources. It is important to respect AICCA experience and knowledge of local Aboriginal and Torres Strait Islander families and networks in communities.

When considered from the point of view of the paramount interests of the child, Aboriginal and Torres Strait Islander children have particular needs which the Department is unable to meet without the assistance and services that can only be provided by Aboriginal and Torres Strait Islander community agencies.

We will measure the government's commitment to self-determination by how well or poorly it supports and funds the implementation and entrenchment of the Child Placement Principle in its ongoing practices and procedures.

RECENT WORK

The next section of the paper provides an overview of the current situation in Queensland and how the Government is seeking to address over representation.

Aboriginal and Torres Strait Islander children comprise around 5% of

Queensland children aged 0-17 years, but 25% of children in care.

Most cases (58.7% in 1997-98) of substantiated Aboriginal and Torres Strait Islander cases involve neglect, compared to 38.3% for non-indigenous children. Greater levels of poverty, unemployment, housing and health problems in Aboriginal and Torres Strait Islander communities can place enormous stresses on families, creating less safe environments for children. The higher proportion of neglect cases may also be caused by predominantly non-indigenous departmental officers not understanding Aboriginal and Torres Strait Islander values and child rearing practices. This can lead to a focus on parental behaviour and parental lifestyle issues.

Aboriginal and Torres Strait Islander children are subject to more intrusive interventions than non-indigenous children, ie, the further into the 'system', the greater the level of over representation. Aboriginal and Torres Strait Islander children are three times more likely than non-indigenous children to come to the attention of the Department, and six times more likely to be subject to protective orders.

When the safety of a child cannot be assured within the family, placement in alternative care is one of a range of strategies used to protect a child as part of child protection intervention. Aboriginal and Torres Strait Islander children are more likely to be placed at home or with relatives (50.2% for Aboriginal and Torres Strait Islander children and 33.3% for non-indigenous children) and slightly less likely to be in a residential unit (2.1% for Aboriginal and Torres Strait Islander children and 4.1% for non-indigenous children).

However Queensland, like most Australian jurisdictions, still has a significant number of Aboriginal and Torres Strait Islander children placed with non-indigenous foster carers. At 30 June 1998, 75.8% of placements were with parents, extended family or other Aboriginal and Torres Strait Islander foster carers. The remaining 24.2%, or 178 children, were with non-indigenous foster carers. This remains a concern, particularly if those children are not having regular contact with their family and community.

There is a multitude of statistics about indigenous children in the child protection system. Rather than detail the data in this paper, the point we wish to emphasise is that, for the most part, despite the Child Placement Principle being policy, there has been little real improvement in outcomes for indigenous children over the past ten years.

The Queensland Department of Families, Youth and Community Care has made a concerted effort in recent years to more effectively implement the Child Placement Principle, and to address the gap between policy and practice in this area.

Recent work includes:

- Consultation on policy and program development: the first consultations on new child protection legislation for Queensland commenced in 1993 and there was extensive consultation with indigenous people throughout the State at this time, conducted by AICCAs and funded by the Department. This was really the beginning of working together. Since then, the Department has consulted regularly with State AICCA (peak body for eleven Aboriginal and Islander Child Care Agencies throughout the State) on child protection practice, policy, funding and program issues.
- In 1995 a research project, *Indigenous Children on Protective Orders in Queensland*, was conducted. This involved a detailed case audit for all Aboriginal and Torres Strait Islander children on orders. Valuable information was obtained about the needs of the children and young people on orders and their families. In particular, it was evident that departmental intervention did not adequately involve families in case planning, and many children were not having ongoing contact with family members. From this research a comprehensive plan for future services was developed.
- Following on from the research project, for the first time in 1996 Aboriginal and Torres Strait Islander Family and Community Workers were recruited to work alongside front-line professional staff (Family Services Officers). Increasing the employment of Aboriginal and Torres Strait Islander child protection staff has been pivotal to

improving the quality of practice with Aboriginal and Torres Strait Islander families. However it is important to reinforce that employment of indigenous child protection staff does not replace the role of AICCAs. Indigenous staff have to consult AICCAs too – both at practice and policy levels.

- Decisions and discussions at local level regarding child and family welfare matters require the establishment of an ongoing consultative process between the Department and the nearest AICCA. Protocols have been negotiated between the Department and AICCAs to enhance the day-to-day working arrangements for consultation and involvement in decision-making.
- The *Child Protection Act* was passed by the Queensland Parliament in March 1999. The Act provides for recognition of the Child Placement Principle and legislates to ensure that family members and community representatives are involved in all decisions about Aboriginal and Torres Strait Islander children. Alongside the new legislation, the Child Placement Principle policy document was updated and reissued jointly with AICCAs.
- Child Protection Reform Strategy: the implementation of new legislation provides a historic opportunity to have a fundamental look at service delivery. The Department has initiated the Child Protection Reform Strategy to develop, jointly with the community sector, a long term strategic plan for child protection which encompasses the areas of child abuse prevention, statutory intervention, and family support for at-risk families. AICCAs are a key player in the reform process, they are represented on the Task Force which is overseeing the reform, and have recently tabled proposals for long term, structural change to the relationship between themselves and the Department.
- Training: more recently, the Department has tried to ensure that all training for child protection workers is open to AICCAs. In 1998 a statewide training program called Working with Families was conducted. This provided a broad overview of the Department's approach to child protection work and for many AICCA staff this provided

the first opportunity to be involved in training alongside colleagues in the Department. Legislation training is now under way and AICCA staff are represented on all regional training teams. They will be involved in training both community agency and departmental officers about the new legislation. In addition, a specific training program called Working with Aboriginal and Torres Strait Islander Families has been developed. This package has been piloted in one region, with departmental and AICCA co-trainers.

- The Queensland Child Protection Council has recently been established. The Minister for Families, Youth and Community Care advised the first meeting of the Council that she wanted the Council to make addressing over representation a priority for its work. Margaret Ah Kee has been appointed to the Council.

WHY HAS THERE BEEN SUCH LIMITED PROGRESS?

It is evident that Queensland has a proactive and collaborative approach to implementing the Child Placement Principle. However there are real barriers to progress that we are attempting to address.

1. The Child Placement Principle needs constant reinforcement. Despite the 'stolen generations' publicity, there are situations today where the Aboriginal identity of some children is overlooked in decision making. The consequences for these children of the non-recognition of their culture are minimised.
2. There are tensions between AICCAs and the Department. There are many structural barriers to collaboration between agencies. These must be recognised for what they are and worked on, not regarded as some inherent failing of either AICCAs or the Department.
 - Structures and systems – agencies have different roles, histories, cultures, policies and practices. Training is intended to help staff understand these different structures and systems.
 - Communication – lack of information sharing is frequently a

barrier to co-operative and interdisciplinary work. Both the process of developing protocols, and the implementation of them, facilitate positive communication.

- Status and perceived power – differences in training, cultural backgrounds, and statutory authority contribute to real and felt power differentials.
- Organisational priorities – different issues may be seen as urgent.

Our determination is to not be discouraged when barriers to collaboration loom. The need to work with AICCAs cannot be denied if you are treading a path towards self determination.

3. Performance measurement is an important evaluation tool. We have to be prepared to make changes if existing strategies are not making a difference to outcomes. Clearly over representation will continue to increase unless there is consistent, concentrated and specific attention and monitoring of services for Aboriginal and Torres Strait Islander families
4. Resourcing: Patricia Turner (formerly from the Aboriginal and Torres Strait Islander Commission) says the most significant failure in indigenous affairs has been the 'continued unwillingness of mainstream government agencies to meet their obligations to their indigenous citizens' (Turner 1997, p.8). Contrary to the usual assumption that too much money is spent on 'Aboriginal problems', she argues that failure to deliver the most basic services which are the responsibility of the States – health, housing and infrastructure, education, law and justice – means sufficient funds have never been allocated to these programs. It is self evident that a child protection agency alone does not have the answer to reducing over representation.

In Queensland, AICCAs believe they are not sufficiently valued by government for the scope and quantity of the work they do, its complexity, and the expertise of staff and management. They argue this lack of recognition is reflected in historically unfair funding. They have proposed a framework for an Aboriginal Family Support Strategy. This is a planning and funding model for Aboriginal family support services based around each indigenous agency having a three year business plan, operationalised through a 'fair funding principle', ie, a formula based on the proportion of indigenous children in the child protection system. Currently about 10% of alternative care funding goes to indigenous agencies, whereas 25% of children in alternative care are indigenous. AICCAs also want the Department to provide them with more training and support.

CONCLUSION

In conclusion then, I want to reinforce two main points from our paper today and cast an eye to the future. The first point I want to reinforce is that the underlying philosophical premise to the Aboriginal and Torres Strait Islander Child Placement Principle is that it is Aboriginal families and communities ourselves who can best look after and raise our children. That is why, given that the Department holds statutory care and protection powers over our children, it is essential that the consultation and protocols between the Department and AICCAs, which are clearly articulated in the Child Placement Principle, must be regularly reinforced in the Department's practices, standards and procedures.

The second point I want to reinforce is one previously mentioned, and that is the need for the Department to adopt the AICCAs proposed departmental planning and funding model so that adequate and fairer funding flows through to AICCAs and other Aboriginal community organisations in order for us to properly carry out our

obligations under the Child Placement Principle.

Casting an eye to the future then, I want to say again what I said at the outset. Simply enacting the Child Placement Principle does not mean that we achieve self-determination. We will measure the government's commitment to self-determination by how well or poorly it supports and funds the implementation and entrenchment of the Child Placement Principle in its ongoing practices and procedures.

In saying this, I am confident that the collaborative relationship we as Aboriginal communities are developing with the Department will remain positive and continue to strengthen over time. And a better quality of life for our most vulnerable children and families will be our reward. □

REFERENCES

- Department of Families, Youth and Community Care (1997), *Research report: Indigenous Children on Protective Orders in Queensland 1995*, Brisbane.
- Human Rights and Equal Opportunity Commission (1997), *Bringing them home: The Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*, AGPS, Canberra.
- Lock, J.A. (1997), *The Aboriginal Child Placement Principle*, New South Wales Law Reform Commission, Sydney.
- Stevenson, O. (1989), *Child abuse: Public policy and professional practice*, Harvester Wheatsheaf, London.
- Turner, P. (1997), 'Public Policy in Indigenous Affairs - No Miraculous Solutions', *Australian Journal of Public Administration*, Vol.56, No.2, pp.3-11.