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TRIBAL PLAN FOR ABORIGINES

Tribal Aborigines should be allowed to operate within an Aboriginal system of criminal justice backed by European law, according to a Senior Lecturer in Law, Mr A.L.C. Ligertwood.

Mr Ligertwood suggests that community courts be established for Aborigines to deal with specifically-designated community offences.

This would not involve taking away the existing jurisdiction of the Magistrates' Court; rather, it was intended to create a further jurisdiction for tribal Aborigines only.

Mr Ligertwood came to these conclusions as a result of his experiences as a lawyer representing Pitjantjatjara Aborigines who were appearing before the Circuit Magistrate between November 1976 and March 1978. His five trips, which were undertaken at the request of the Aboriginal Legal Rights Movement (A.L.R.M.), were concentrated at three Aboriginal settlements in the north-west of South Australia: Amata, Ernabella and Indulkana.

"Adolescent crime is widespread in the north-west, and one reason for this is the failure of communities either to follow traditional paths of initiation to manhood, or to replace these traditions with new institutions," Mr Ligertwood said.

Most of the offences committed are either against European property or involve things introduced by Europeans, such as alcohol. As stealing from outsiders and drunkenness have no equivalents in tribal law, tribal authorities have been unable to develop norms to meet the problem.

He said the breakdown of authority was clearly illustrated in the treatment of the boys who were reaching maturity and awaiting initiation — and those were the ones who committed most of the crimes. Traditionally the elders had taken full responsibility for their education and control but as the task has become more difficult fewer older men were willing to take the full responsibility.

As well, while the boys awaiting initiation were still separated from the rest of the tribe to learn to fend for themselves, it no longer took the form of a complete separation whereby the group disappeared into the bush

to learn the men's skills. Instead, they camped either near or in the settlements, and stole food if their relatives would not give it. This had resulted in the camp store becoming the most burgled building in a settlement.

Mr Ligertwood said that while the official policy had been that Aborigines must respect European laws, in practice the people had very little contact with these laws and the institutions which administered them.

"It is only since the A.L.R.M. decided to send a lawyer regularly to the area that serious efforts have been made by all concerned to explain the system to the people," he said.

While some leads had already been given to increase Aboriginal involvement generally in the European system, nothing was being done to encourage existing tribal authority — in fact, existing policy continued to undermine it.

"In most areas this is no problem for no tribal authority exists, but in the north-west it may be that traditional authority should be recognised, or at least accommodated. It is not too late to attempt that accommodation."

Problems of authority have been created within Aboriginal society between the elders, on the one hand, and Aborigines who hold positions of importance in the community in European-directed affairs.

"At the moment the two strands of authority live an uneasy co-existence," Mr Ligertwood said. "Neither knows its limits, so that neither prevails over the communities. The resultant lack of authority is, in my opinion, an explanation of many of the social problems to be found in the communities."

"I certainly feel that in some areas European institutions must prevail, particularly those involving civil law, and more provision should be made to bring Aborigines within these institutions, but the relative success of the homeland policy suggests that there are still areas where tribal authority can assert itself."

"What I suggest is that steps be taken to support traditional authority, while at the same time Aborigines are taught to use those European institutions of European technology and economics."

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