
Social Justice Report 2005

FACT SHEET THREE:

Participation and engagement of Aboriginal and Torres Strait Islander peoples in decision making



The new arrangements for Indigenous affairs have been put in place to ultimately improve the lives of Aboriginal and Torres Strait Islander communities. However, the fundamentals required to make the new arrangements work have yet to be properly established. While governments are waiting to hear from communities about their needs and entering into agreements with communities at a growing rate, some basic principles have yet to be implemented.

The **participation** of Indigenous communities is essential for the new arrangements to work and central to a human rights based approach to development.

While there have been substantial efforts made in the first 12 months of the new arrangements to identify processes for engaging with Indigenous peoples, significant gaps remain in Indigenous representation at local, regional and national levels. Also, no mechanisms have been established to ensure the distinct issues of Torres Strait Islanders on the mainland are addressed.

A central objective of government activity remains to ensure the maximum participation of Aboriginal and Torres Strait Islander peoples. One of the first priorities must be to establish regional representative bodies which can link to local, as well as state and national levels - Regional Partnership Agreements can provide a solid basis for this to occur.

The *Social Justice Report 2005* recommends that the federal Government, in partnership with state and territory governments, prioritise the negotiation of regional representative arrangements with Indigenous peoples. Further, the report identifies four aspects towards ensuring the effective participation of Aboriginal and Torres Strait Islander peoples:

1. Indigenous representation at the international, national, regional and local levels
 - Development of regional representative bodies will increase Indigenous people's access to governments and maximise access of Indigenous peoples to all levels of service delivery.
 2. Indigenous participation through agreement making and planning processes at the national regional and local levels
 - Participation in Shared Responsibility Agreements.
 3. Processes for government engagement with Indigenous peoples
 - Dissemination of appropriate information to Indigenous communities about the new arrangements.
 - Strategies for engagement with Indigenous peoples at all levels.
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4. Mechanisms for ensuring accountability and transparency
 - Evaluation of the new arrangements such as the COAG trials.

It is important that the participation of Indigenous peoples' is based on free, prior and informed consent.

Free, prior and informed consent

A key principle that emerges throughout the considerations for agreement making is that of *free, prior and informed consent*, which represents a synthesis of the obligations to ensure effective participation. The elements of this principle include: the lack of coercion, intimidation and manipulative actions; that consent has been sought in advance and consultation processes have been respected; information is provided on the scope of the activity, and: that consultation and participation are undertaken in good faith.

In August 2005, the Human Rights and Equal Opportunity Commission co-hosted a workshop with the United Nations Permanent Forum on Indigenous Issues to consider key elements which underpin the engagement of governments, the private sector and civil society with Indigenous communities. The workshop developed *Guidelines for engagement with Indigenous peoples'*. These guidelines are available online at www.humanrights.gov.au