

**AUSTRALIA'S RESPONSE TO UN EXPERT MECHANISM ON THE RIGHTS OF
INDIGENOUS PEOPLES QUESTIONNAIRE ON THE DECLARATION ON THE RIGHTS OF
INDIGENOUS PEOPLES**

FEBRUARY 2014

Following an election in September 2013, the Liberal-National coalition government was elected. The Australian Government is taking a number of steps very early in this term of government to make a real difference to the lives of First Australians. This response sets out those steps.

Australia previously responded to this questionnaire in February 2013.

1. Does the state have an overarching national implementation strategy to attain the goals of the Declaration?

Australia is committed to its domestic and international obligations.

Indigenous issues are accorded a high priority in Australia, with the Australian Prime Minister being the Prime Minister for Indigenous Affairs. Most Indigenous policies, programmes and service delivery have been moved into the Department of the Prime Minister and Cabinet, and the Minister for Indigenous Affairs sits within Cabinet. In addition a Parliamentary Secretary assists with delivering outcomes for Indigenous Australians. The new administration arrangements ensure that Indigenous issues considered in policy development and programmes deliver more effective outcomes for Indigenous Australians.

The Government's priorities in Indigenous Affairs are to ensure that children go to school, adults go to work and the ordinary law of the land is respected and enforced.

A good education is seen as a pathway to participation, prosperity and wellbeing for all Australians. The Government is focusing on improving school attendance, particularly in remote areas, to ensure Indigenous children receive a good education. Educational success helps prepare Indigenous children to become future leaders in their communities.

The Government has commissioned a review of Indigenous employment and training programmes. The review aims to ensure these services are targeted and administered to connect unemployed Indigenous people with real and sustainable jobs.

The Government wants all Australians to live in communities where crime rates are low and the ordinary law of the land is observed. To this end tough alcohol regulations will continue to be supported by Government so all community members, particularly women, children and the elderly, can live peacefully and safely in their own homes.

The Indigenous Advisory Council has been established to better inform policy development and focus on practical changes that will improve the lives of Indigenous Australians.

The Government is committed to the recognition of Aboriginal and Torres Strait Islander peoples in Australia's Constitution. It aims to present a draft amendment to the Constitution to the Australian people in late 2014, recognising Indigenous Australians as Australia's first peoples.

The Government works with state and territory governments, including through the Council of Australian Governments (COAG), to help ensure that issues are addressed by the level of government that is best placed to deliver results.

The COAG is the peak intergovernmental forum in Australia. It comprises governments from the Commonwealth (or Australian government), six states and two territories and a representative from the Australian Local Government Association.

2. Have specific legal, policy or other measures been adopted especially to implement any or all rights in the Declaration?

The Australian Government believes Indigenous Australians deserve a better future and its policies and programmes are working to ensure that they are able to achieve this through improved education and more job opportunities.

The Government is engaging Aboriginal and Torres Strait Islander Australians in solving problems and pursuing opportunities.

Australia has established a Prime Minister's Indigenous Advisory Council to provide advice to the Government on emerging policy and implementation issues relating to Indigenous Affairs. The Council is made up of people from Indigenous and non-Indigenous backgrounds with a strong understanding of Indigenous culture and a diversity of expertise in economic development, business acumen, employment, education, youth participation, service delivery and health.

The Government has committed funding through a new Empowered Communities model to strengthen local leadership and governance and build strong, healthy, prosperous and safe communities. The aim of Empowered Communities is to empower Indigenous people, leaders and organisations to take control and responsibility at the local level, particularly in response to issues associated with welfare dependency.

The Government considers that improving governance is essential in strengthening the work that is already being done with Indigenous communities across Australia. The administration of more than 150 Indigenous programmes and services, from eight different government departments, has recently moved into the Department of the Prime Minister and Cabinet. The consolidation of these Indigenous programmes provides an opportunity to streamline arrangements, reduce red tape and prioritise expenditure to achieve practical outcomes on the ground.

Employment: Australia is committed to halving the gap in employment outcomes between Indigenous and non-Indigenous Australians (by 2018).

In doing this, the Government is committed to engaging with Indigenous Australians to deliver the practical skills needed to secure and maintain employment, which is regarded as fundamental to improving Indigenous lives and opportunities. A review of

employment and training programmes is underway to identify ways of better targeting Indigenous training and employment services to connect Indigenous people with real and sustainable jobs.

Education: Australia is committed to three targets aimed at closing the gap between Indigenous and non-Indigenous education outcomes. These are:

- ensuring Indigenous four-year-olds in remote communities have access to early childhood education (by 2013);
- halving the gap for Indigenous children in reading, writing and numeracy (by 2018); and
- halving the gap for Indigenous people aged 20-24 in Year 12 or equivalent attainment rates (by 2020).

In 2014 the Government is proposing an additional Closing the Gap target for agreement by the Council of Australian Governments: ending the gap between Indigenous and non-Indigenous school attendance within five years.

Ensuring Indigenous children go to school is a key priority that will deliver long-term improvements across a range of articles in the Declaration. Australia, through the Remote School Attendance Strategy, is working closely with all levels of government and non-government education providers to address barriers contributing to non-attendance in remote areas. The immediate priority is to ensure Indigenous students in remote areas get to school on time and attend regularly.

The Council of Australian Governments agreed in December 2013 to joint action on Indigenous school attendance, including twice yearly reporting.

Law and Safety: Australia is committed to ensuring that the ordinary law of the land operates in Indigenous communities, so that Indigenous women are afforded the same protections under the law as Indigenous men and as non-Indigenous Australians.

3. When devising laws, policies or other measures that affect indigenous peoples, do governmental bodies routinely take into account the Declaration (including indigenous peoples' rights to participate in decision making that affects them)?

See response to Q2.

4. Has the Government endeavoured to raise awareness about the Declaration to various levels of the community and governance to enhance the prospects of its implementation?

Australia's national human rights institution, the Australian Human Rights Commission, has produced reports and developed resources to help Aboriginal and Torres Strait Islander peoples understand and protect their rights. Resources on the Declaration include an overview, community guide and poster, which highlight examples of Indigenous peoples' rights in action. The resources can be viewed at http://www.humanrights.gov.au/declaration_indigenous/declaration_full.html

In addition, Australia's Aboriginal and Torres Strait Islander Social Justice Commissioner reports annually on Social Justice and Native Title issues. This reporting promotes awareness, fosters discussion and recommends actions to ensure the human rights of Aboriginal and Torres Strait Islander peoples are observed.

The Australian Human Rights Commission, in collaboration with the National Congress of Australia's First Peoples, held 'Declaration Dialogue' meetings in 2013 and 2014 with Indigenous communities throughout Australia to raise awareness of the Declaration.

The Government funds Indigenous Australians to attend Indigenous-specific international fora, including those focused on the Declaration, in acknowledgement of the importance of involving Indigenous peoples on issues that affect them.

5. What are the main challenges encountered in adopting measures and implementing strategies to attain the goals of the Declaration?

The Government's priorities in Indigenous Affairs are to ensure that children go to school, adults go to work and the ordinary law of the land is respected and enforced.

The Closing the Gap strategy sets targets to focus on outcomes to address Indigenous disadvantage and improve Indigenous peoples' lives.

Australia's recent experience with the Closing the Gap strategy has highlighted the need to:

- engage Indigenous people more in solving their own problems, as government policies or programmes alone cannot overcome Indigenous disadvantage or close the gap between Indigenous and non-Indigenous Australians; and
- assess the impact of policies and programmes and, where success is not being achieved, be prepared to change approach and try new things.

Increased spending on Indigenous Australians has not equated to better outcomes. In too many areas, Indigenous Australian's lives are not improving or not improving fast enough. There has been a proliferation of agreements, frameworks and strategies. Some of these have very complicated and detailed reporting requirements that have diverted attention from delivering better outcomes.

6. In the light of the information provided above, what are your views on best practices regarding possible appropriate measures and Implementation strategies to attain the goals of the Declaration? Please also consider and, if relevant, comment on the role that can be played by international institutions, including the Expert Mechanism on the Rights of Indigenous Peoples, to assist states in adopting measures and implementation strategies to attain the goals of the Declaration.

Two areas in Australia where best practice measures and implementation strategies are being used to attain improved outcomes for Indigenous Australians are in recognition and education: recognising Aboriginal and Torres Strait Islander peoples in the Australian Constitution and school attendance measures.

CONSTITUTIONAL RECOGNITION OF INDIGENOUS AUSTRALIANS

The 'Recognise' campaign is a people's movement to recognise Aboriginal and Torres Strait Islander peoples, as Australia's first peoples, in the Australian Constitution. 'Recognise' aims to enhance awareness and build community support throughout Australia for constitutional recognition of Indigenous Australians.

Aboriginal and Torres Strait Islander Australians are the first inhabitants of Australia, and the movement to recognise them in Australia's Constitution presents an historic opportunity to acknowledge their unique culture and history, and their enormous contribution to the nation. The Prime Minister, the Hon Tony Abbott MP, has referred to symbolic and practical recognition being two sides of the same coin – symbolic change must be pursued if efforts to achieve practical change are to succeed. A successful referendum would be a unifying moment for Australia, similar to its 1967 referendum and the 2009 National Apology to Australia's Indigenous peoples.

As part of the campaign for constitutional change, 'Recognise' is running the Journey to Recognition, a relay across the country to build momentum for constitutional recognition. The Journey to Recognition engages Aboriginal and Torres Strait Islander peoples in discussions around constitutional recognition in remote, regional and urban Indigenous communities. As it travels around Australia, the Journey also raises awareness of Indigenous issues among the wider Australian population.

The 'Recognise' campaign strongly supports the Government's commitment to present a draft amendment to the Australian people in late 2014 to recognise Indigenous Australians in the Constitution.

- The Journey to Recognition was launched in May 2013 in the state of Victoria, and has involved a relay of people walking, riding and driving through Victoria, South Australia and the Northern Territory to arrive at the high-profile Indigenous Garma Festival in Nhulunbuy in August 2013. The second leg of the Journey travelled from Darwin in the Northern Territory down the Western Australian coast, arriving in Perth in December 2013. The third leg of the Journey commenced in March 2014 in Western Australia and will travel throughout the southern parts of that state before continuing on to other states.

- At the end of 2013 the Journey to Recognition had covered approximately 16,000 kilometres, recruited over 32,000 new supporters and held over 95 events in more than 90 communities.
- Information on the Journey to Recognition is available on the Recognise website at <http://www.recognise.org.au/>

REMOTE SCHOOL ATTENDANCE STRATEGY

Levels of school attendance of Aboriginal students have been well below the levels of non-Aboriginal students for many years and at their lowest in remote area schools. Poor attendance is a key factor in the gap in education outcomes between Aboriginal and non-Aboriginal students. Improving school attendance of Aboriginal students is an important step to improving education outcomes including literacy and numeracy, and employment outcomes.

As part of a broader approach to improving school attendance amongst Indigenous students nationally, the Government began the implementation of a remote school attendance strategy at the beginning of the first school term in 2014.

The Remote School Attendance Strategy is designed to lift school attendance levels in remote communities by developing capacity and using the cultural authority of local people including parents, carers and interested community members to work with schools, families, and children to ensure children attend school regularly.

The Government has committed, over the next two years, to providing 400 School Attendance Supervisors and School Attendance Officer positions to help children in 40 remote communities get to school on time, every day of the school year. These positions are filled by local Aboriginal and Torres Strait Islander people.

The 40 remote communities targeted initially have been identified because they have had low school attendance rates over recent years, in most instances below 70 per cent. In some cases the attendance rate during the five years has been as low as 45 per cent. The strategy is operating in five jurisdictions: the Northern Territory, Queensland, New South Wales, South Australia and Western Australia and has been welcomed across the communities.

The following information addresses access to justice for Indigenous Australians, including people with disabilities.

- The Indigenous Justice Programme, supports safer communities by reducing Indigenous offending, and through that, reduces Indigenous victimisation and incarceration. Funded projects focus on case management and diversionary activities for young people and/or children, as well as early intervention activities to stop the cycle of violence against women and children.
- The Community Night Patrol Programme helps to break the cycle of violence and crime in Indigenous communities with activities such as safe transportation, referral to information and services, and early intervention to prevent disorder in communities. The programme reduces the potential contact of Indigenous people, including those with disabilities, with the criminal justice system by defusing volatile situations and thereby reducing offending, including harm to women and children.
- The Family Violence Prevention Legal Service provides culturally-appropriate assistance to Indigenous adults and children who are victims of family violence, including sexual abuse. Assistance includes counselling, legal services, casework and court support services as well as community legal education.
- The Indigenous Women's Programme addresses the particular legal service needs of Indigenous women. The programme provides assistance for a range of legal issues including family violence and sexual violence.
- The Supplementary Legal Assistance Programme increases the capacity to respond to the legal needs of Indigenous people in the Northern Territory. Funding for 2013, included three Women's Legal Services in the Northern Territory.
- The Northern Territory Aboriginal Interpreter Service provides interpreter services to help Indigenous Australians in contact with the justice system access basic community services. Similarly, the Commonwealth Community Legal Services Programme provides legal services for Indigenous women. Assistance includes community development and community legal education, and outreach services to rural and/or urban fringe communities in areas of family law, tenancy, domestic and sexual violence, and consumer rights law.

The following information addresses natural disaster risk reduction and prevention and preparedness initiatives:

- The Council of Australian Governments has established the National Strategy for Disaster Resilience to address natural disaster risk reduction and prevention. The Strategy is based on a national, co-ordinated and cooperative effort to enhance Australia's capacity to withstand and recover from emergencies and disasters.
- Implementation of the Strategy acknowledges disaster resilience is the collective responsibility of all sectors of society, including all levels of government, business, the non-government sector and individuals.
- Indigenous communities contributed to the development of the National Emergency Management Strategy for Remote Indigenous Communities, which aims to improve the disaster resilience within those remote communities.