



Australian
Human Rights
Commission

everyone, everywhere, everyday

National Indigenous Representative Body Workshop



Summary Report

11-13 March 2009
Stamford Glenelg, Adelaide

Note – Use of the terms ‘Aboriginal and Torres Strait Islander peoples’ and ‘Indigenous peoples’

The Aboriginal and Torres Strait Islander Social Justice Commissioner recognises the diversity of the cultures, languages, kinship structures and ways of life of Aboriginal and Torres Strait Islander peoples. There is not one cultural model that fits all Aboriginal and Torres Strait Islander peoples.

Aboriginal and Torres Strait Islander peoples retain distinct cultural identities whether they live in urban, regional or remote areas of Australia.

Throughout this issues paper, Aboriginals and Torres Strait Islanders are referred to as ‘peoples’. This recognises that Aboriginals and Torres Strait Islanders have a collective, rather than purely individual, dimension to their livelihoods.

On occasion, Aboriginal and Torres Strait Islander peoples are also referred to as ‘Indigenous peoples’. The use of the term ‘Indigenous’ has evolved through international law. It acknowledges a particular relationship of aboriginal people to the territory from which they originate. The United Nations High Commissioner for Human Rights has explained the basis for recognising this relationship as follows:

Indigenous or Aboriginal peoples are so-called because they were living on their lands before settlers came from elsewhere; they are the descendants – according to one definition – of those who inhabited a country or a geographical region at the time when people of different cultures or ethnic origins arrived, the new arrivals later becoming dominant through conquest, occupation, settlement or other means... (I)ndigenous peoples have retained social, cultural, economic and political characteristics which are clearly distinct from those of the other segments of the national populations.

Throughout human history, whenever dominant neighbouring peoples have expanded their territories or settlers from far away have acquired new lands by force, the cultures and livelihoods – even the existence – of indigenous peoples have been endangered.

The threats to indigenous peoples’ cultures and lands, to their status and other legal rights as distinct groups and as citizens, do not always take the same forms as in previous times. Although some groups have been relatively successful, in most part of the world indigenous peoples are actively seeking recognition of their identities and ways of life.¹

The Social Justice Commissioner acknowledges that there are differing usages of the terms ‘Aboriginal and Torres Strait Islander’, ‘Aboriginal’ and ‘indigenous’ within government policies and documents. When referring to a government document or policy, we have maintained the government’s language to ensure consistency.

¹ United Nations High Commissioner for Human Rights, Fact sheet No.9 (Rev.1), The Rights of Indigenous Peoples, www.unhchr.ch/html/menu6/2/fs9.htm.

Summary of workshop outcomes

Background

In December 2008, the Australian Government requested the Aboriginal and Torres Strait Islander Social Justice Commissioner to convene an independent, Steering Committee of Aboriginal and Torres Strait Islander people to develop a preferred model for a national representative body for Aboriginal and Torres Strait Islander peoples.

The Steering Committee is required to:

- develop a preferred model for a new national Indigenous representative body for presentation to the Australian Government in July 2009;
- make recommendations in regards to the establishment of an interim body from July 2009 which would operate until the finalised body takes effect; and
- ensure strong community support for such a representative model.

This work follows on from the consultations and submissions process conducted by the Government in 2008.

In January 2009, the Social Justice Commissioner invited Aboriginal and Torres Strait Islander men and women to nominate to attend a national workshop to guide the development of a new national Indigenous representative body. The workshop was set for 11-13 March 2009 in Adelaide. The purpose of the workshop was to:

- 1) review submissions and the outcomes of consultations conducted by the Government to date on the establishment of a new representative body,
- 2) identify the key elements or features of a new National Indigenous representative body which can then be distilled down to a series of preferred models for a new representative body, and
- 3) identify a process for further consultation with Indigenous communities leading to the establishment of an interim representative body from July / August 2009.

The workshop was NOT intended to:

- endorse a final model for a national representative body or
- decide membership of a national representative body.

Through the plenary sessions, smaller working groups and an electronic survey conducted at the workshop, it was possible to identify those issues on which there was an emerging consensus among participants and those issues where there remained divergent views or at least, a need for further consultation. These are identified further below.

Terminology

At the outset of the workshop, it was acknowledged that there is a growing debate about the appropriate terminology to be used when referring to Aboriginal and Torres Strait Islander peoples. While accepting the international context for the term ‘indigenous’, participants in the workshop expressed a strong preference for the phrase ‘Indigenous peoples’ **not** to be the primary descriptor used in the domestic Australian context. Preferences were voiced for the following terminology:

- Aboriginal and Torres Strait Islander peoples; and
- First nations or First peoples.

A majority of participants expressed their preference for the phrase ‘First nations’ or ‘First peoples’.

A 20 year vision for the national representative body

Workshop participants expressed the desire for a national representative body to contribute to generational change for Aboriginal and Torres Strait Islander peoples. Participants did not want, twenty years from now, for their children and grandchildren to be in the position where they needed to have the same discussions taking place at this workshop.

Participants identified that over the next 20 years, the national representative body would have a leading role to play in achieving constitutional recognition and a treaty, in closing the gap, and in Australia as a country owning and facing up to its history. The representative body would have contributed to a situation where our children are empowered, we are in control of our own destiny, are culturally strong and proud, economically independent and where the Aboriginal and Torres Strait Islander community/ies are united and not wracked by internal division.

Participants described their vision for the representative body as follows. In 20 years time, there is reciprocal respect between the representative body and tribal nations. The national representative body:

- is functioning effectively and efficiently;
- is self-sufficient and self-determining;
- is independently funded and free from government control or interference;
- is an organization that embodies the principles of self-determination and human rights at every level;
- has credibility and integrity in both Aboriginal and Torres Strait Islander and non-Indigenous communities and government;
- is standing on its own feet;
- is truly representative of the diverse makeup of Aboriginal and Torres Strait Islander populations – gender, rural/ regional/ remote, youth;
- utilizes and shares the diverse skill sets and expertise of our peoples;

- has a role in development of policy for service delivery in a truly influential way;
- is seen as a peak public body working at best standards for a public representative body;
- provides pathways for education, employment and professional development of Aboriginal and Torres Strait Islander peoples;
- is accessible to grassroots people; and
- is holding Government accountable for their obligations to Aboriginal and Torres Strait Islander peoples as citizens.

Guiding principles for a new representative body

There was agreement among the workshop participants on the importance of the national representative body pursuing the following objectives:

- playing a leading role in forging a new partnership between Governments and Indigenous peoples;
- ensuring Indigenous peoples contribute to and lead policy development on Indigenous issues;
- ensure that an Indigenous perspective is provided on issues across government;
- advocate for the recognition and protection of Indigenous peoples' rights;
- ensure adequate accountability mechanisms exist for government's performance in delivering services to Indigenous peoples and communities;
- ensure that commitments to closing the gap are supported by long term action plans;
- ensure and support good governance among Indigenous communities and organisations;
- ensure the equal participation of Indigenous women in all of its decision making processes; and
- ensure the equal participation of mainland Torres Strait Islanders.

There was also common agreement on the need for the national representative body to operate in accordance with the highest standards of ethical and moral conduct and to be open, transparent and accountable to Aboriginal and Torres Strait Islander peoples.

The adapted Nolan principles on public life (see below) were seen as setting out behavioural expectations for members of the national representative body.

Nolan Committee principles on public life

These principles relate to all aspects of public life. They were created by the Nolan Committee for the benefit the public in any way.² These principles will apply to all who are employed by the national Indigenous representative body.

² <http://www.parliament.uk/about/how/members/standards.cfm>.

Eight Principles of Public Life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefit for themselves, their family, or their friends.

Integrity

Holders of public office should not try to place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making appointments, awarding contracts or recommending individuals for rewards or benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. The holders of public office should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Behaviour

Holders of public office must exhibit at all times the exemplary levels of personal and corporate behaviour.

The following key guiding principles were also identified for the national representative body:

- **Accountability:** to Aboriginal and Torres Strait Islander peoples, and also of government to the national representative body. This involves **transparency** in operations and through effective communication / dissemination of information with Aboriginal and Torres Strait Islander peoples;
- **Authority:** This will come from representativeness of the body, and also from development of a strong evidence base;
- **Legitimacy:** This will come from reflecting the diversity within Aboriginal and Torres Strait Islander communities – including issues relating to disability, mainland Torres Strait Islanders, geographic and

- cultural differences. It will also emerge from the body being representative and through advocating for the most vulnerable;
- **Partnership:** with both government and industry as well as with Aboriginal and Torres Strait Islander organisations, peak bodies and communities; and
 - **Respect:** for culture and for the cultural diversity within Aboriginal and Torres Strait Islander communities.

The importance of recognising and protecting Aboriginal and Torres Strait Islander peoples' human rights was also emphasised. The *UN Declaration on the Rights of Indigenous Peoples* was identified as providing the framework for engagement with Aboriginal and Torres Strait Islander peoples. Groups commonly raised the need for gender equality in representation.

Social inclusion was also highlighted as a key principle with the representative body playing a vital role in the education of the broader Australian community and working for the benefit of all Australians towards Reconciliation.

Roles and functions of a national representative body

There was common agreement among the workshop participants on the importance of the national representative body having the following roles and functions:

- advocacy;
- formulating policy and advising government;
- reviewing government programs;
- negotiating framework agreements with governments;
- monitoring service delivery by governments;
- conducting research and contributing to law reform processes; and
- representing Aboriginal and Torres Strait Islander peoples at the international level.

The majority of workshop participants also agreed that the national representative body should have the following roles and functions:

- a coordination or 'clearing house' role to promote the sharing of information between Indigenous representative organisations and service delivery organisations; and
- conducting facilitation and mediation services for Indigenous peoples.

Participants rated the following roles as the most important for a national representative body to undertake:

- advocacy;
- monitoring government service delivery;
- formulating policy and advice;
- negotiating framework agreements with governments; and
- reviewing government programs.

It was also noted that the representative body:

- could work with the federal government in planning expenditure of state / territory funds for Indigenous affairs;
- could be advised by peak bodies, and they could in turn be advised by the representative body;
- should be able to commission new research, informed by Indigenous knowledge systems and research methods, and should set the vision based on the desires, needs, priorities and aspirations of Aboriginal and Torres Strait Islander peoples; and
- should take a lead role in promoting a positive image of Aboriginal and Torres Strait Islander communities.

In relation to service delivery, it was commonly agreed that:

- the representative body should **not** deliver services or programs;
- it should set priorities for service delivery in consultation with Aboriginal and Torres Strait Islander peoples, communities and state / territory level representatives;
- it should have a mandate to set targets to hold governments accountable; and
- it could work with existing monitoring processes, as well as receive independent field reports from regional members or bodies.

Engaging with communities / representativeness

A majority of participants believed that the national representative body should have structures at the national, state / territory and regional levels to engage with Indigenous peoples.

A great majority of participants also agreed that it is essential for the national representative body to have a direct relationship with regions and a majority agreed that the organisation's national membership should be drawn from the regional level. While there was support for the organisation to have a state / territory structure it was notably less than the support for a regional structure. There was however strong support for the national representative body to bring regional representatives together at the state / territory level.

There was strongest support for the national representative body to engage directly at a regional level. The overwhelming majority of participants believed that:

- The national representative body should include regional representative structures; and
- Should convene regional forums on a regular basis.

A substantial majority of participants also believed that the national representative body should:

- enter into partnerships with governments at the regional level;
- conduct regional planning or negotiate regional framework agreements; and
- draw its national membership from the regional level.

A substantial majority of participants also believed that the national representative body should:

- bring regional representatives together at the state / territory level; and
- convene state-wide planning forums.

The majority of participants also believed that the national representative body should:

- have a state / territory level structure; and
- negotiate state-wide framework agreements with government.

There was strong support for the representative body to form strategic alliances with peak bodies and Aboriginal and Torres Strait Islander agencies and businesses. There was also support for non-Indigenous organisations and NGOs to provide advice to the representative body on invitation.

Structure of the national representative body

There was strong support for the national representative body to be made up of an equal number of men and women, and for members to have integrity, vision and credibility, and to be required to adhere to a code of conduct.

There was also a strong view that members of the national representative body should **not** be appointed by government.

There was, however, not a clearly preferred mechanism for members of the representative body to be selected. There was mixed support for a direct election model and alternatively for a delegate model. The majority of participants, however, did not support peak bodies being able to directly nominate representatives onto the national body.

The direct election model posed a dilemma as many participants felt that a democratic process should be used, but that it did not always result in the most qualified or suitable applicants being selected. Many participants preferred a system that combined election with a merit selection process, so that applicants were assessed as possessing the necessary skills prior to the election being conducted. If an election model is used, participants generally preferred that each state and territory should be given the opportunity to work out a system that will work for them (and their regions) as a one size fits all approach may not work.

There was mixed support for the idea of eminent Indigenous leaders selecting representatives. Such a process would require an open, competitive and transparent process.

Relationship to government and funding mechanisms

There was also support for the representative body to be established under legislation and to report directly to Parliament – such as through a statutory authority model. Similarly, there was support for the body to be a non-government organisation such as through being a company limited by guarantee. Participants were concerned to ensure that the body be sustainable and have longevity beyond the political cycle.

Participants strongly expressed a view that while government funding would be required for the establishment period of the national representative body it needs to be able to operate independent from government. The idea of an establishment fund to provide a capital base for the organisation received strong support. Additionally there was a preference for the national Indigenous representative body to identify funds nationally and internationally from the philanthropic and corporate sector and that government funding should be used for a defined establishment period.

A substantial majority of participants rated the following funding options as important:

- have a fund established to give the body a capital base (like the Indigenous Land Corporation);
- receive (untied) government funding;
- be established through a future fund financed through a percentage of mining tax receipts; and
- gain charitable status to receive tax free donations.

Participants also identified the potential for the representative body to charge membership fees or charge for delivery of goods and services. However, the majority of participants did not see these options as important in funding the representative body.

Issues where a consensus has begun to emerge

Major areas of consensus from workshop participants included:

- Principles guiding the formation of the representative body and behavioural standards to be applied to members of the body;
- The roles and functions of the representative body (including that the representative body **not** undertake a service delivery role);
- Ensuring the equal participation of men and women as representatives;
- Ensuring that there are mechanisms in place to ensure the participation of groups that are generally marginalised such as young people, people with disabilities, members of the stolen generation and mainland Torres Strait Islanders;

- Ensuring that there is representation of the diversity of Aboriginal and Torres Strait Islander peoples based on gender, geographical locations, relationship to country and cultural diversity;
- That the representative body be self-determining and that it operate independently of government influence (including through how the governance of the body is structured, and by receiving untied or discretionary recurrent funding);
- That all representative body members are Aboriginal and/ or Torres Strait Islanders and there is a clear process to verify identity;
- Selection of new representative body representatives must be transparent, with a selection process determined by Aboriginal and Torres Strait Islander people and selections based on set criteria that includes identifying the specific and appropriate skills required.

Issues requiring further consideration

Issues on which no clear consensus emerged during the workshop included:

- whether the national representative body should use a delegate or direct election model, and the role of merit selection in either model;
- how a panel of eminent Indigenous peers would operate in any selection process (it at all);
- issues relating to structure of the national representative body and how it would engage at the regional and states/territory level; and
- further details on the qualities and skills required for the national representative body leadership. This is to inform the development of selection criteria if a merit based selection process is used.

APPENDIX – Workshop participants

The list of workshop attendees is attached below. Please note, some people who were initially elected have withdrawn – those people are not listed.

Patron – Dr Lowitja O'Donoghue

Queensland and Torres Straits region

Mr Desmond Tayley
Mr Gregory Phillips
Mr Todd Phillips
Mr (Lui) Ned David
Mr Alf Lacey
Mr Stephen Hagan
Mr Reginald Rickardo Guivarra
Mr Percy Neal
Mayor Napau Pedro Stephen
Mr Victor Hart
Mr Michael Williams
Ms Babinda Lency Adidi
Miss Victoria Jenkins
Ms Coralie Ober
Mrs Mary Ann Coconut
Ms Delilah MacGilivray
Mrs Elaine McKeon
Mrs Patricia Thompson
Ms Helen Akee

NSW

Mr Paul Gray
Mr Troy McGrath
Mr Sean Gordon
Mr Leon Donovan
Mr William Johnston
Mr Oliver Costello
Mr Leslie Ridgeway
Mr Tom Briggs
Mr Steve Widders
Mr Aden Ridgeway
Mr Russell Taylor
Miss Kirsten Cheatham
Ms Megan Davis
Ms Carla McGrath
Miss Renee Williamson
Ms Tina McGhie
Ms Kim O'Donnell
Ms Kirstie Parker
Ms Lynette Riley
Ms Shiralee Carroll
Ms Bev Manton

Ms Mary-Lou Buck
Ms Neita Scott
Mr Rick Griffiths

Australian Capital Territory

Mr Steven Brown
Mr Ron Morony
Mr Terry Williams
Ms Anne Martin
Mrs Matilda Ann House
Ms Mary Guthrie

Northern Territory

Mr Miritjunga Darren Maymuru
Mr Kim Hill
Mr Geoffrey Wangapa Jungarrayi Barnes
Mr Barayuwa Mununggurr
Mr Marius Puruntatameri
Mr Paul Ah Chee
Mr Wali Wunungmurra
Mr Banambi Wunungmurra
Mr Mialay Dhambarra Wunungmurra
Mr Harold Furber
Ms Barbara Shaw
Ms Amanda Ngalmi
Ms Ngaree Ah Kit
Ms Djapirri Mununggirritj
Mrs Marrpalawuy Marika
Mrs Bess Nungarrayi

South Australia

Dr Lowitja O'Donoghue
Commissioner Klynton Wanganeen
Mr Eddie Cubillo
Mr Tauto Sansbury
Prof Roger Thomas
Miss Rebecca Grace Richards
Ms Eugenia Flynn
Miss Diat Alferink
Ms Leanne Maree Liddle
Ms Sandra Miller

Western Australia

Miss Dorinda Cox
Mrs Loretta Harris
Ms Glenda Kickett
Mrs Kayleen Hayward
Mrs Jennifer Knivetton (Gregory)
Mrs Dorothy Henry
Miss Rosetta Maria Sahanna

Mrs Patricia Mason
Assc Prof Ted Wilkes
Mr Braden Hill
Mr Peter Jeffries
Mr David Collard
Mr James (Jim) Morrison
Mr Brian Wyatt
Mr Sandy Davies

Tasmania

Mr Anthony King

Victoria

Mr Walter Saunders
Dr Mark Rose
Mr Graham Atkinson
Ms Lidia Alma Thorpe
Ms Leanne Miller
Ms Judy Saxton
Ms Jill Gallagher
Miss Lynette Austin
Mrs Muriel Bamblett
Ms Monica Morgan
Ms Daphne Yarram