

WE STAND

**MOVING BEYOND RECOGNITION:
RESPECTING THE RIGHTS OF ABORIGINAL
AND TORRES STRAIT ISLANDER PEOPLES**

TOGETHER



OXFAM
Australia

Publication and acknowledgements

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Aboriginal and Torres Strait Islander readers should be aware that this publication may contain images or names of people who have since passed away. Oxfam acknowledges the Wurundjeri people as the custodians of the country on which Oxfam's national office is based in Melbourne where this report was produced. We pay our respects to their elders; men and women; past, present and future. We also extend our respect to all Aboriginal and Torres Strait Islander nations who, for thousands of years, have preserved their culture and practices across their countries.



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1. EXECUTIVE SUMMARY

The year 2017 is a year of anniversaries of significant milestones for the rights of Aboriginal and Torres Strait Islander peoples, including the 50th anniversary of the historic 1967 referendum, the 25th anniversary of the landmark Mabo decision and the 10th anniversary of the adoption of the UN Declaration on the Rights of Indigenous Peoples. Yet, despite some major achievements, far too many Aboriginal and Torres Strait Islander peoples live in circumstances akin to those in developing countries.

Over the years, countless reports from inquiries, reviews and royal commissions have gathered dust on shelves. These reports call time and time again for better resourcing of Aboriginal and Torres Strait Islander organisations and services, and for Indigenous Australians to be directly involved in decisions about matters that affect them — to respect the right of self-determination. Yet the Aboriginal Family Violence Prevention and Legal Services are having to turn away vulnerable women and their children who are in desperate need of help. Some services report that up to 30-40% of women contacting them seeking assistance are turned away because they don't have the capacity to support them.

This report by Oxfam, an international development organisation that works with communities to tackle poverty, finds that, over the longer term, many of the fundamental rights of Aboriginal and Torres Strait Islander peoples have not progressed. The principle failure of successive governments has been the failure to listen to and effectively include Aboriginal and Torres Strait Islander peoples in decision-making about matters which affect their lives.

In Oxfam's experience, directly affected people must be involved in decisions about their own lives.

As a founding member of the Close the Gap campaign — the nation's largest campaign to improve Indigenous health — we know that without the effective involvement of Aboriginal and Torres Strait Islander peoples, governments will continue to struggle to improve health and wellbeing outcomes. The latest Closing the Gap report tabled in Federal Parliament by Prime Minister Malcolm Turnbull demonstrates this, highlighting yet again that progress towards most targets is failing.

The direct involvement of Aboriginal and Torres Strait Islander peoples in decision-making about matters that affect them is something called for in the Redfern Statement. This call for better engagement to address the appalling disadvantage gap between Australia's First Peoples and non-Indigenous Australians was developed by Australia's leading Aboriginal and Torres Strait Islander peak bodies in June 2016 and delivered to the Prime Minister in Parliament in February this year.

This report highlights the importance of Aboriginal and Torres Strait Islander peoples having control over developing solutions to the issues they face, in areas from health to education, land rights and the protection of language and culture. It argues that more funding needs to be invested directly in Aboriginal and Torres Strait Islander organisations to support them to provide the services and develop the solutions for their communities.

The report includes analysis on the widely criticised Indigenous Advancement Strategy (IAS), the Federal Government's funding model for programs targeting Indigenous Australians, which started in 2014.

It finds a worrying lack of transparency around the IAS, and points to indications that the Federal Government is increasingly looking to mainstream services and programs to meet Indigenous Australians' needs, even though these are often lacking in cultural competency and safety.

Key figures:

- Only 55% of IAS funding goes to Indigenous organisations.
- Our analysis indicates that mainstream services from both federal and state and territory governments accounted for 81.4% of all direct Indigenous expenditure in 2012-13, with Indigenous-specific services receiving just 18.6% of funds.
- Between 2008-09 and 2012-13, funding to mainstream services increased by 26%, while Indigenous-specific funding suffered a real decrease of 1.2%.
- In 2014-15, Aboriginal and Torres Strait Islander community controlled health organisations suffered a reduction of \$1.2 million overall to essential frontline services, including alcohol and drugs, social and emotional wellbeing, and youth.

Respecting the rights of Aboriginal and Torres Strait Islander peoples must go beyond recognition in the Australian Constitution.

This report outlines 10 steps the government must take for progressing the rights of Aboriginal and Torres Strait Islander peoples and towards achieving full participation and equality for Australia's First Peoples.

Ten steps to progress the rights of Aboriginal and Torres Strait Islander peoples:

1. Legislate human rights standards
2. Fund an independent national representative body
3. Formally respond to the Social Justice Commissioner's reports
4. Act on recommendations from past government reports
5. Increase representation of Aboriginal and Torres Strait Islander peoples in the Federal Parliament and policy development
6. Increase and prioritise funding for Aboriginal and Torres Strait Islander organisations
7. Change the native title system
8. Protect language and cultural rights
9. Reform the Australian Constitution
10. Right past wrongs and retain present protections against racial vilification

2. TEN STEPS TO BRING ABOUT CHANGE

RECOMMENDATIONS	ACTIONS
1. Legislate human rights standards	<ul style="list-style-type: none"> The Federal Government should develop an action plan to implement the provisions contained in the UN Declaration on the Rights of Indigenous Peoples. This plan should be developed with the active participation of, and in full partnership with, Aboriginal and Torres Strait Islander peoples and their representative organisations. The Federal Government should introduce comprehensive legislative protection of human rights, such as a Human Rights Act. The rights protected in legislation should include the right to self-determination, respect for and protection of cultural rights and the right to equality and non-discrimination.
2. Fund an independent national representative body	<ul style="list-style-type: none"> An independent and sustainable national representative body is a fundamental component to achieving positive change. The Federal Government must provide adequate and secure funding for an independent national representative body that is directly elected by Aboriginal and Torres Strait Islander peoples. All Australian parliaments should enact legislative requirements or adopt other mechanisms such as parliamentary committees to ensure that federal and state and territory governments properly consider the recommendations of the national representative body. Representative bodies and structures need to be based on a stronger adoption of the principle of self-determination that fully devolves decision-making power over policy and programs and their implementation to the local level. Some examples of how this might work already exist in regional governance structures such as the Torres Strait Regional Authority, Aboriginal land councils, various types of local community governance structures and community controlled service delivery organisations. All Australian governments through the Council of Australian Governments (COAG) should engage with the Redfern Statement to develop policy responses to many of the challenges facing Aboriginal and Torres Strait Islander peoples.
3. Formally respond to the Social Justice Commissioner's reports	<ul style="list-style-type: none"> The Federal Parliament should enact a legislative requirement or adopt other mechanisms such as parliamentary committees requiring the Federal Government to provide a formal response to the Social Justice Report and Native Title Report on their tabling in parliament each year.
4. Act on recommendations from past government reports	<ul style="list-style-type: none"> All Australian governments should develop appropriate mechanisms to oversee the implementation of recommendations contained in government reviews, commissions and inquiries. These mechanisms must be constituted by Aboriginal and Torres Strait Islander peoples. Recommendations from past major reviews and royal commissions should be reviewed so that those that remain relevant are implemented. The Federal Government, through COAG, must set targets for reducing incarceration of Aboriginal and Torres Strait Islander peoples and improving community safety, and develop plans that are culturally appropriate and relevant.
5. Increase representation of Aboriginal and Torres Strait Islander peoples in Federal Parliament and policy development	<ul style="list-style-type: none"> All Australian governments should implement the recommendations contained in the NSW Legislative Council Standing Committee on Social Issues report, Enhancing Aboriginal political representation. These include consultation with Aboriginal and Torres Strait Islander peoples; the development of action plans by political parties to increase participation by Aboriginal and Torres Strait Islander peoples; and support for and expansion of mentoring programs for Aboriginal and Torres Strait Islander peoples involved in local government. All Australian governments must recognise that Aboriginal and Torres Strait Islander peoples are best placed to understand the challenges they face, the solutions that are needed and to implement those solutions. To do this government must consult widely, listen, act on the advice it is receiving and empower Aboriginal and Torres Strait Islander peoples to act. All Australian governments must ensure that Aboriginal and Torres Strait Islander peoples and their organisations are directly involved in decision-making about matters that directly affect them. This could be achieved, for example, by including requirements for an "Indigenous Impact Statement" and genuine consultation with Aboriginal and Torres Strait Islander peoples in Regulatory Impact Statements.

RECOMMENDATIONS	ACTIONS
6. Increase and prioritise funding for Aboriginal and Torres Strait Islander organisations	<ul style="list-style-type: none"> All Australian governments, led by the Federal Government, must provide adequate and guaranteed long-term funding to Aboriginal and Torres Strait Islander peak sector organisations to address the complex and long-term issues that their communities face. Funding agreements should be for at least five years. Funding provided by all Australian governments for Aboriginal and Torres Strait Islander services and programs should preference funding for Aboriginal and Torres Strait Islander organisations. Where no suitable Aboriginal and Torres Strait Islander organisations exist, funding should prioritise partnerships between Aboriginal and Torres Strait Islander organisations and non-Indigenous organisations to build capacity. Allocations of funding for Aboriginal and Torres Strait Islander organisations, programs and services must be based on the level of need and recognise the disproportionate rates of socio-economic disadvantage within Aboriginal and Torres Strait Islander communities. All Australian governments must establish mechanisms to ensure that decisions about government funding for Aboriginal and Torres Strait Islander services and programs are made by Aboriginal and Torres Strait Islander peoples. All Australian governments must enshrine the importance of Aboriginal and Torres Strait Islander community controlled organisations, including their freedom to advocate, into public service codes of conduct and principles that guide funding decisions.
7. Change the native title system	<ul style="list-style-type: none"> Native title should be simpler to prove, including reversing the onus of proof placed on claimants and reducing the high burden of proof currently required to demonstrate ongoing connection. Native title should provide a more meaningful cultural and economic asset once recognised.
8. Protect language and cultural rights	<ul style="list-style-type: none"> The Federal Government must provide stronger legislative protection for the right of communal ownership of Aboriginal and Torres Strait Islander cultural heritage, which encompasses the full range of cultural heritage including traditional knowledge, traditional and cultural expressions (such as dance, music, song, writings and ceremonies), tangible cultural property (such as sacred sites and burial grounds) and intangible cultural property (such as oral stories). The Federal Government must introduce increased penalties for contravening cultural heritage laws, including the provision of compensation to affected Aboriginal and Torres Strait Islander community members. Institutions such as AIATSIS should be broadened and strengthened to recognise the special importance of preserving Aboriginal and Torres Strait Islander collections and the unique value of traditional knowledge and practices within Australia. Primary and secondary schools should be resourced and supported to deliver bilingual education programs and to develop appropriately skilled bilingual education teachers and aides.
9. Reform the Australian Constitution	<ul style="list-style-type: none"> The Federal Government should take appropriate steps to implement the recommendations made by the Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples.
10. Right past wrongs and retain present protections against racial vilification	<ul style="list-style-type: none"> The Federal Government should establish a national scheme to provide comprehensive reparations, including compensation, to the Stolen Generations. The Federal Government, in consultation with Aboriginal and Torres Strait Islander peoples, audit and implement the recommendations contained in the Australian Human Rights Commission's Bringing Them Home report on the forcible removal of children. The Federal Government, in consultation with Aboriginal and Torres Strait Islander peoples, reviews and implements the recommendations contained in the Unfinished Business: Indigenous Stolen Wages report, including to establish a national compensation scheme. The Racial Discrimination Act should be retained in its current form to ensure strong and effective protections against racial vilification.



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