

Australian Indigenous People's Caucus Response
Questionnaire on Indigenous Issues /PFII
January 2017

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A. General information and background on your organization/institution

1. Please provide the name of your organization/entity and where it is based. Please also provide details on the objectives and goals of your organization.

The Aboriginal Rights Coalition (ARC) is an Aboriginal community organisation that works locally, nationally and internationally to promote the rights of Aboriginal and Islander peoples of Australia. The ARC was established in response to the Federal Government's '*Northern Territory Emergency Response*' in 2007, when the Federal Government sent 600 army troops into 73 Aboriginal communities, imposing Government appointed Community Business Managers and removing community decision making structures. It also imposed racially profiled legislation that cut cash welfare benefits for Aboriginal people, allocating those funds instead through a cashless card. The intervention also imposed enforced individual leases over communal held lands. Many of these policies continue today through the Stronger Futures Legislation.

The ARC advocates across a range of other policy areas, including the recognition of Aboriginal sovereignty, land rights, women's rights, against Aboriginal deaths in custody and high incarceration rates and to promote environmental protection and cultural heritage. A key current focus is campaigning against the proposed closure of up to 150 remote Aboriginal communities in Western Australia, (WA) by terminating fuel subsidies that power critical water pumps and provide electricity. The ARC is currently working with more than 10 organisations and communities in WA to prepare an Urgent Action on the matter to go before the Human Rights Council.

The Aboriginal Rights Coalition(ARC) is a not for profit voluntary run organization that chooses to maintain its independence by not seeking or relying on any funding from external sources. The ARC has no funding for its operation but relies instead on the donation of time, operating resources and specific funding grants and or sponsorship for international and national advocacy work.

2. What is the total number of indigenous peoples in your country? Please also include official sources/references.

Indigenous Peoples	
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(total figures)		
Indigenous Peoples (please provide the names of different groups)	Country	Total indigenous population (Indicate source)
Aboriginal and Torres Strait Islander Peoples	Australia	In 2011 estimated resident population was 669,900 people, representing 3% of the total Australian population. (Australian Bureau of Statistics: http://www.abs.gov.au/ausstats/abs@.nsf/Products/31329946F1E095BACA257CC9001438BA?opendocument , accessed 5/01/2017).

3. Which indigenous peoples/communities does your organization represent and/or work with?

Indigenous Peoples (represented by your organization)			
Indigenous Peoples	Country	Region and areas	Total indigenous population represented
Aboriginal and Torres Strait Islander Peoples	Australia	The ARC works with communities and organisations from across Australia.	

4. Has your organization/institution participated in any sessions of the Permanent Forum on Indigenous Issues? If yes, please indicate the year(s).

Yes, the ARC has attended sessions of the Permanent Forum every year from 2011-2016.

B. Recommendations of the UN Permanent Forum on Indigenous Issues

5. Has the work of the Permanent Forum supported indigenous peoples? Please provide details with specific examples.

Raising concerns at the UNPFII has supported Indigenous peoples to raise issues of concern on rights abuses that are occurring. However, information on follow up and how the Forum seeks follow up responses from the Australian government may be strengthened.

There has been minimal support to Indigenous Peoples from the Australian Government in supporting the work of the Permanent Forum, particularly in the implementation of the Declaration on the Rights of Indigenous Peoples. Australia's federal system requires any international commitments to be incorporated into domestic legislation in order for

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Australia's international human rights obligations to have direct application in Australian law. No legislation has been developed in relation to the Declaration on the Rights of Indigenous Peoples and Australia is yet ratify ILO Convention No. 169.

The right to free, prior and informed consent of Indigenous Peoples is not protected under Australian law. While consultations are held by all levels of Government, these processes were often marred through a lack of sufficient information provided, a lack of sufficient time allocated and a lack of translations. Consultations processes where they occur tend to be tokenistic and don't incorporate real input into decision making. Government representatives also often choose the preferred individuals and organisations to consult with which may agree with the outcome being proposed.

Indigenous community groups and representatives are marginalised and unsupported by State and Territory governments. The Australian Government has not created legislation to protect and implement the right to free, prior and informed consent. Government representatives and private enterprise frequently fail to meaningfully consult with indigenous and community leaders. Indigenous Peoples often receive severe pressure from the mining industry to ensure necessary approvals are obtained in order for projects to proceed.

*At the 2017 session, the Permanent Forum will focus on the follow-up of its recommendations on: **a)** Empowerment of indigenous women; and **b)** Indigenous youth. In this context, and regarding the situation in your country:*

6. Please provide information on any measures your organization has taken to strengthen the role and rights of indigenous women. Please also include information on any steps to address sexual and gender-based violence against indigenous women and girls, in particular in conflict situations (para. 57 of 2016 Report).

The ARC recommended in 2011 the previous study on violence and women and girls undertaken by the PFII in 2012.

The ARC compiled and contributed to a joint submission on Indigenous women and gender based violence in conflict situations to the International Criminal Court, submitted in 2014.

The ARC contributed submissions to the Post 2015 Development agenda process and highlighted the needs of Indigenous women and girls through these processes in 2013-2014.

The Chair of the ARC, Cathryn Eatock has participated on the National Aboriginal and Torres Strait Islander Women's Alliance, represented the state of New South Wales.

7. Please provide information on any projects or programmes your organization has taken to support indigenous youth. Please also provide information on any action taken to (i) prevent self-harm and suicide; and (ii) facilitate the inter-generational transfer of traditional knowledge and histories among your peoples/communities.

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The ARC has consulted with Indigenous youth regarding positions on suicide and concerns of the LGBT community and concerns regarding income management.

C. UN Declaration on the Rights of Indigenous Peoples

*The UN Declaration on the Rights of Indigenous Peoples was adopted in 2007. To mark the ten year anniversary, and assess gains and achievements, the theme of the Permanent Forum's 2017 annual session will be: **Tenth anniversary of the United Nations Declaration on the Rights of Indigenous Peoples: measures taken to implement the Declaration.***

8. How has the situation of the indigenous peoples in your country evolved since the adoption of the UN Declaration in 2007? Has the adoption of the UN Declaration made a difference? Please include information in the matrix below:

	Better	Worse	No Change	Comments and Detail
Culture	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Aboriginal Heritage laws have been weakened the protection of cultural sites at both state and federal level.
Education	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Efforts to adopt a national curriculum which included Indigenous studies has stalled prior to implementation. Bilingual education has been cut in the Northern Territory.
Environment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Environmental Protection Authority has suffered significant cuts to its funding, which has supported Indigenous peoples to protect their lands
Health	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Aboriginal services have had funding cut nationally, whether directly related to health provision or not these cuts contribute to negative impacts on health outcomes on the ground for Indigenous peoples.
Human Rights	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Constitution does not prohibit or impede parliaments in Australia from passing laws that are racially discriminatory.
Socio-economic Development	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The lower level of funding through the government Indigenous Advancement Strategy (IAS), which in 2015 resulted in a significant increase in mainstream

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	Better	Worse	No Change	Comments and Detail
				<p>services being funded to provide services to Aboriginal and Torres Strait Islander communities, which impacts directly on the employment of Aboriginal staff employed in service provision.</p> <p>The abolition of the Community Development and Employment Program (CDEP), which provided employment in remote Aboriginal communities has substantially cut employment programs in remote communities and also cut the services that those community initiatives provided.</p>
Lands, territories & Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The existing laws do not affirm rights over lands territories and resources and in all cases the onus of proof remains upon the Indigenous Peoples.</p> <p>Current Native Title legislation does not provide full rights over lands where Native Title is legally recognised.</p> <p>These arrangements do not meet the requisites of impartiality, independent, openness and transparency as set out in Articles 27 and 40 of the Declaration on the Rights of Indigenous Peoples and Paragraph 21 of the WCIP Outcome Document.</p>
Participation in decision-making	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Consultation with Indigenous Peoples, or their free, prior and informed consent is not required under Australian law.</p> <p>The National Congress of Indigenous Peoples, Australia's national representative body, has had its funding terminated in 2015.</p> <p>There is no replacement body to the Aboriginal and Torres Strait Islander Commission (ATSIC) which lost funding in 2004 and had previously enabled Indigenous input into limited areas of decision making.</p> <p>Policies such as the Northern Territory</p>

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	Better	Worse	No Change	Comments and Detail
				Intervention, implemented in 2007, abolished community decision making and implemented government appointed Community Business Managers.
Law and Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Australian constitution was established by 1901 without regard for rights but including discriminatory provisions, some of which still remain in the Constitution of Australia. Since 2010 the government has proposed changes to the Constitution to 'recognise' the Indigenous population, but remains undecided. The government still fails to commit to removing discriminatory provisions in the Constitution. The Australian government's policy approach has retreated from policies advocating 'self-determination' of Indigenous peoples.
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

9. Do you have any examples of good/best practice in implementing the UN Declaration? If so, please provide details.

Not currently being implemented, though the previous Aboriginal and Torres Strait Islander Commission (ATSIC), which ceased in 2004, provided a national example that facilitated Indigenous decision making and provided a set budget for specific areas.

10. What are the major successes as well as the remaining obstacles for the implementation of the UN Declaration on the Rights of Indigenous Peoples in your country?

The National Congress of Australia's First Peoples was established as the national representative body for all Indigenous Peoples in Australia, supporting the implementation of Declaration on the Rights of Indigenous Peoples is a core concern of the National Congress and its members. However, in 2014 the Australian Government withdrew financial support to the National Congress of Australia's First Peoples. The Australian Government has preferred to establish and seek advice from an advisory committee, the Prime Ministers Indigenous Advisory Council, consisting of 10 government appointees which includes Indigenous and non-Indigenous members though there is no capacity for the

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Aboriginal and Torres Strait Islander community to provide input to this Indigenous Advisory Council.

The Australian Constitution does not prohibit or impede the Commonwealth or State parliaments in Australia from passing laws that are racially discriminatory. The Commonwealth Parliament introduced and passed the *Racial Discrimination Act 1975* (Cth) (RDA). The RDA has been partially effective in preventing the State and Territory parliaments from passing laws that are racially discriminatory.

However, interpretation of the RDA allows discriminatory laws to be adopted as 'special measures', if a parliament considers the laws to be beneficial to the Indigenous Peoples. Consultation with the Indigenous Peoples, or their free, prior and informed consent is not required under Australian law including the RDA. The federal government can override the RDA by later legislation that is inconsistent with the RDA. An example of this is the suspension of the RDA on three occasions by the Commonwealth Parliament since 1975 to allow significant acts of racial discrimination against Indigenous Peoples to be lawful. The Australian parliament has not required the Aboriginal community impacted to agree prior to the imposition of 'special measures'.

Changes to further weaken the *Racial Discrimination Act 1975* (Cth) are currently being considered by the Parliamentary Inquiry into Freedom of Speech.

D. World Conference on Indigenous Peoples

In 2014, at the World Conference on Indigenous Peoples (A/RES/69/2), Member States committed to taking a number of measures to achieve the ends of the Declaration.

11. Has your organization been involved in any legislative, policy and/or administrative measures taken by the Government to implement the UN Declaration on the Rights of Indigenous Peoples? Please provide details.

No

12. Have any steps been taken or are planned to develop a national action plan or strategy on indigenous peoples? Please also include information on information sharing and capacity building to strengthen awareness and action to implement the UN Declaration.

The ARC has held local discussions on the implementation of the Declaration among its members.

The ARC is an active member of the IPO, (Australian Indigenous Caucus) and is contributing as a member of the IPO Working Group on the Declaration which is organising:

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The IPO is working with the National Congress of Australia's First Peoples on how to further the implementation of the Declaration on the Rights of Indigenous Peoples and a federal action plan.

The IPO is meeting with Australian Human Rights Commission to progress discussions on working collaboratively to further progress the development of a national action plan.

The ARC will participate in the IPO Declaration Workshop for its members, in March 2017, to further develop constructive strategies to develop strategies and proposal to provide to government to support the Australian government to progress the implementation of the Declaration.

13. The UN has recently developed a system wide action plan to promote improved support to Member States as well as indigenous peoples themselves to achieve the UN Declaration on the Rights of Indigenous Peoples (SWAP-Indigenous Peoples). Please provide information on the involvement of your organization/peoples in any projects, activities/dialogues and/or events of the UN in your country to advance rights and opportunities for indigenous peoples.

Cathryn Eatock has represented the ARC at UN consultation meetings regarding the SWAP, participating in both the General Assembly consultations in New York and consultation meetings in relation to the EMRIP in Geneva in 2015 and 2016.

The ARC also contributed to these processes through the UNPFII and EMRIP.

The ARC presented at meetings with the Special Rapporteur on the situation of Human Rights Defenders when he visited Australia last year.

The ARC presented at meetings with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

The ARC is currently developing submission for the Special Rapporteur on Women and Violence for their upcoming visit to Australia in February 2017.

The ARC is currently seeking to engage with the Special Rapporteur on Indigenous Issues in their upcoming visit in March 2017.

D. 2030 Agenda for Sustainable Development

The 2030 Agenda for Sustainable Development sets the framework for global development efforts until 2030. The Permanent Forum on Indigenous Issues will address the follow up and review of the 2030 Agenda. Please provide information on the following

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14. Has your government consulted you in the national level implementation, review and follow-up to the 2030 Agenda?

No.

15. Which goal/s of the 2030 Agenda are most important for your work and how you will engage in the implementation? Please describe any 2030 Agenda programmes, activities or other initiatives your organization is involved in at the community, national, regional or global level

All of the goals of the 2030 Agenda are important to the work of the ARC and its members. At this stage the ARC does not have a detailed plan or determined activities regarding the goals of the 2030 Agenda.

16. Is your organization involved in the collection and dissemination of disaggregated data or culturally relevant data on indigenous peoples? Please mention if and how you work with National Statistical Offices to integrate the data in official reports for review of the 2030 Agenda?

No