

# **Hands-on Parliament — a Parliamentary Committee Inquiry into Aboriginal and Torres Strait Islander Peoples' Participation in Queensland's Democratic Process\***

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The consolidation of the Queensland Constitution has been on the public agenda for some time now, and the Queensland Constitutional Review Commission (QCRC) was established to investigate and review that Constitution.

One of the recommendations of the QCRC was that the Legal, Constitutional and Administrative Review Committee (LCARC) conduct an inquiry into the possibility of special representation for Aboriginal and Torres Strait Islander people.

The LCARC took up this recommendation but expanded its scope to include looking at Indigenous people's participation in Queensland's democratic processes generally, and ways to enhance that participation.

The committee released an issues paper, titled *Hands on Parliament* in December 2002 and called for public submissions. From March to June 2003 the committee conducted consultation throughout Queensland through public meetings spanning the length and breadth of the state and has met with key representative bodies including the state policy council of ATSIC, representatives of 15 Deed of Grant in Trust communities, the Torres Strait Regional Authority and the state government's Aboriginal and Torres Strait Islander Advisory Board.

The committee aims to report by September 2003.

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\* This article was written for a conference in mid 2003 and the chronology of the article reflects that fact.

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This paper outlines major themes and general issues in relation to strategies to enhance Indigenous people's participation. At the time of this conference at which this paper is presented, the committee had not yet reported. However, the issues are relevant to all Australian jurisdictions and draw on the New Zealand experience for models for change. The issues represent a challenge facing Australia's democratic institutions, particularly in their ability to provide representative governance. I note that the NSW Legislative Council Standing Committee on Social Issues undertook an extensive inquiry into dedicated seats for Aboriginal people in 1997–1998.

### ***The Issue***

In Queensland, Aboriginal and Torres Strait Islander people make up more than 3 per cent of the population. They are, of course, the original inhabitants of the land. Statistically, with 89 members of Parliament, there should be 2–3 Indigenous MPs in every Parliament. However, only one Indigenous person has been elected to the Queensland Parliament — Mr Eric Deeral who was the National Party member for Cook in 1974–77. (Cook is the electorate comprising Mossman and Port Douglas.) Queensland has elected one Indigenous person to the Senate — the late Mr Neville Bonner, a Liberal, appointed to fill a casual vacancy in 1971 and elected in 1972.

There have been Indigenous candidates run in State elections, particularly in the Cook electorate. There has also been a number of Indigenous candidates run in local government elections but they have largely been unsuccessful.

### ***Barriers to Participation***

The committee's initial research indicated that there are barriers to Indigenous people's participation in democratic processes which might have contributed to under representation of Aboriginal and Torres Strait Islander people. In consultation, people were asked to share with the committee what they saw as barriers to participation.

The main themes which came out of consultation were a lack of education about civics, voting and how to become involved in political processes; racism; a lack of self-confidence; issues, such as health, housing and justice matters, being higher priority than political aspirations; a mistrust of government from historical experiences; the attitudes of the political parties which were seen as unwelcoming with structures that are not appropriate for Indigenous people; a view that Westminster systems, and liberal democracy generally, were inappropriate for Indigenous people; and that participation could be seen as a concession of sovereignty.

## *Major Themes*

There are some main themes that have emerged through the committee's consultation. They can be categorised into two groups — division and unity; and formal recognition.

### *Division and Unity*

Some people who have put their views to the committee have rejected the notion of any special measures being put into place to enhance Indigenous people's participation in democratic processes.

Some of the concerns were that special measures would create further division in the community between Indigenous and non-Indigenous people; that 'anything that reinforces separateness is a danger'; that special measures will be perceived as (yet another) handout; and that special measures risk being tokenistic.

Proponents of this view generally advocate enhancing existing processes to ensure that there is a level playing field for Indigenous people to be involved in democratic processes. These people generally see methods such as enhancing civics and voter education as the key to increasing participation.

Some people see special measures as an attack on democracy that would lead to the majority having to answer to a minority. It might be noted that these views have been put strongly to the committee but not by a large number of people.

Consultation has also brought out an opposing view on the same theme: namely that special measures are necessary and appropriate. The argument relating to necessity is that, unfortunately, racism remains prevalent and that special measures are needed to overcome the barrier that this presents. It is argued that special measures are appropriate — some have even used the phrase owed to Indigenous people — because, firstly, Indigenous people should enjoy a special status as first people of the nation (or in the committee's case, Queensland); and secondly, to make some restitution to the people who have been disadvantaged by the system that was imposed over existing governance structures.

The challenge for the committee is to strike a balance between these two views to ensure that justice for Indigenous people is enhanced while being mindful of encouraging greater unity of the Indigenous and non-Indigenous community.

### *Constitutional Issues, Colonisation and Westminster Systems*

At both the state and federal levels, the issue of constitutional recognition of our nation's first people remains one of the central issues for any forum considering matters relating to Aboriginal and Torres Strait Islander peoples. The issue has been

raised with the committee in its public meetings and in submissions, and the committee will be considering this issue as part of its report. It is widely considered that formal recognition of Indigenous people, as first people with inherent rights, is required to move forward for meaningful reconciliation processes.

At this stage, despite recommendations from important bodies, such as the Council for Aboriginal Reconciliation, and despite a call from many sectors of the community (both Indigenous and non-Indigenous), no such recognition has been implemented. In Queensland, constitutional recognition for the state's Indigenous people has been recommended in several key reports. It is usually discussed in terms of a preamble. As yet, no formal recognition has been incorporated into the constitution of Queensland.

A related concern which has been raised with the committee is that Indigenous people's participation in democratic processes is inherently limited because liberal democracy, and Westminster institutions — based on the individual — are entirely inappropriate for Indigenous people, whose system of governance is based on the collective. There appears to be no immediate or obvious solutions to address this fundamental disparity.

The committee has been criticised for basing its inquiry in a liberal democratic framework and thereby necessarily limiting solutions to this framework. While this criticism cannot be ignored, it is arguable that participation in the processes is necessary to effect meaningful change. It is also arguable that governments in Australia should be negotiating with Indigenous people in decisions that affect them, and the government is obligated to ensure that Indigenous people are equipped to take part in such negotiations.

It is with these major themes setting the context that the committee will consider the views that have been expressed about each of the strategies examined.

### ***Strategies to Enhance Participation***

In its issues paper, the committee set out five strategies which might enhance Indigenous people's participation in the democratic process. These strategies are aimed at overcoming some of the barriers I mentioned earlier.

*1. Enhancing existing processes* — for example, enhancing civics and voter education, enhancing the role political parties could play in increasing the number of Indigenous people through their ranks and into candidacies, encouraging people into youth parliaments and traineeship or mentoring programs.

*2. Direct input to Parliament* — this model could involve Aboriginal people and Torres Strait Islander people being provided with direct input into Parliament; for example, through an existing body or some new body being able to ask questions on

notice of ministers, having observer status in the Parliament or the creation of a joint Parliamentary/community committee for examining bills or other matters for appropriateness and respect for Indigenous people's unique position.

3. *An Aboriginal and Torres Strait Islander Assembly*, similar to that which operates for the Sami people in Norway. The Sami Parliament meets twice yearly and reports to the general Parliament.

4. *Dedicated seats* — these have been operating in New Zealand since the 1870s. Maori people choose to be on either the Maori electoral roll or the general electoral roll, and the number of dedicated seats is determined by the number of people on the Maori roll. The country is divided up into general electorates that are overlaid by Maori electorates. Currently, there are 7 Maori seats out of 120.

5. *Change to the electoral system* — this strategy questions whether Queensland's electoral system is appropriate for achieving a representative parliament or whether another system, such as the Mixed-Member Proportional (MMP) system operating in New Zealand, would allow more effective representation of minority groups, including Aboriginal and Torres Strait Islander peoples.

The committee also encouraged people to make other suggestions, some of which have included: redistribution and appropriate weighting of electoral boundaries to allow Indigenous communities to mobilise a critical mass; enhancing the formal role of ATSIC in state affairs; observance of Aboriginal and Island ceremony in the Parliament; and granting territory status and autonomous government to the islands of the Torres Strait.

It has been clear throughout the inquiry that the committee wanted to make realistic and achievable recommendations.

When the committee reports, the responsible Minister — in this case the Premier — will have three months to make an interim response and a further three months to make a final response. He must advise whether the Government intends to implement the committee's recommendations and state why or why not.

### *Strategy 1: Enhancing Existing Processes*

#### *Education*

This has generally been seen as the main way to enhance participation of Indigenous people. The main problem cited has been lack of education of both the Indigenous and non-Indigenous community. The committee is exploring what civics education is included in the school curriculum; how this could be enhanced; whether there needs to be civics education targeted towards Indigenous students; how to ensure that teachers are educated to effectively teach Aboriginal and Torres Strait Islander students and how to enhance cross cultural awareness for students

and adults in the general population. It has also been suggested to the committee that there is a need for widespread cultural awareness training and that MPs should receive such training early in their term.

### *Political Parties*

The potential for political parties to enhance the participation of Indigenous people in politics has been explored by the committee. Many people who have made submissions to the committee have cited that there is some responsibility on political parties to make them relevant to Indigenous people and to encourage Indigenous people into the party. Some people have suggested that, similar to the Emily's List — program to encourage and support women into politics, there could be a 'Bonner List' — to support Aboriginal and Torres Strait Islander people into politics.

The committee invited all political parties registered in Queensland to meet with it and was pleased with the steps being taken by several of the parties to ensure that Indigenous people were encouraged into the party, although this has not yet translated into successful candidacies. Steps ranged from policies of employing Indigenous people in MP's electorate offices to the establishment of Indigenous committees within the party with access to all policy committees. Programs were generally in their infancy and it is difficult to assess the effect they have had on encouraging Indigenous people into politics. However, the committee was encouraged by the activity of some parties.

The concept of affirmative action for Indigenous people was explored, in a similar manner to moves to increase female candidates in so-called 'safe' seats in recent years. The concept did not receive widespread support.

### *Other Ideas*

Widespread support was expressed for encouraging Indigenous students to participate in Youth Parliaments or other internship programs and also to make traineeships and mentoring programs available through parties, the Parliamentary Service, electorate offices and in relevant agencies such as the Electoral Commission. Increasing people's familiarity with processes was seen as a key factor in boosting confidence and as an effective means of skilling people to put themselves forward for positions where they may be highly influential on policy and outcomes, be that election to Parliament or effective in lobby groups or the public service.

People's involvement at the local level was seen as an effective means of participation because issues dealt with are often more relevant to Indigenous people on a day to day basis and because of connections between people and place.

### *Strategy 2: Direct Input*

This strategy did not seem to receive much support as a means of increasing participation in democratic processes. People thought that the same people would be involved as are already involved and saw it as a relatively ineffectual measure for achieving social justice or effective representation.

There was some support for a joint parliamentary/community committee but the details of who would represent the community on this committee, how they would be chosen and what the exact function of the committee should be were not discussed in detail.

### *Strategy 3: An Aboriginal and Torres Strait Islander Assembly*

There was some support for an Indigenous Assembly because regionalised representation would provide a model that Indigenous people are familiar and comfortable with; it would ensure that people and place remain associated and representatives would be accountable to their local community; it would best ensure representation of the many nations that make up the Indigenous community; and because it might mean that the general Parliament should be required (perhaps by law) to respond to recommendations of the Indigenous Parliament.

Other people were opposed to a separate Assembly because it would contribute to separation of the Indigenous and non-Indigenous community; it would involve the same people as are currently involved; and it would have little influence over the general Parliament.

If a separate Assembly were to be established, the issue of how it would be effective for both Aboriginal people and Torres Strait Islander people would need to be addressed.

### *Strategy 4: Dedicated Seats*

The idea of dedicated seats was readily understood by all people who gave their views to the committee. Consequently, it was subject of much discussion in submissions and public meetings.

No consistent views were put to the committee about dedicated seats. There were divergent views on how many seats there should be, who could vote for them, whether they would represent geographical regions, what would their status in the Parliament be and whether there should be dedicated seats at all.

There was no strong sense that this option was what the majority of people in the Indigenous community wanted as a means to enhancing their representation.

### *Strategy 5: A Change to the Electoral System*

In its issues paper the committee raised the question whether the electoral system could or should be changed to increase its representativeness. The committee noted that systems such as MMP might increase the representation of minority groups in the Parliament.

People who have commented on this strategy were concerned to point out that Indigenous people are unique and not like other minority groups because of their position as the original inhabitants of the State.

Strong views about this strategy were not put to the committee.

### *Conclusions*

Having completed its consultation, the committee is now in a position to assess all of the views that have been put to it, draw conclusions and formulate practical, meaningful and achievable recommendations.

Personally, the inquiry has been a sharp learning curve for me. My understanding of Indigenous people's position in Australia and respect for them as first people have grown immensely. I hope that the committee's inquiry will make some difference — at least in a way that makes more people consider the issues and in a way that encourages every person to be responsible for the role they can play in making their voice heard in democratic processes. ▲