



## IKC101 Indigenous Cultures, Histories and Contemporary Realities

### Module 2: Indigenous Histories

#### Topic 4: Indigenous Australian Peoples and Human Rights, Social Justice and Reconciliation

This module links modules 2 & 3 by investigating Indigenous Australian people, Human Rights, Social Justice and Reconciliation.

This topic is study towards achieving the following **outcomes**:

- be able to apply knowledge of Australia's obligations under the United Nations human rights framework for the protection of Indigenous Australian Human Rights;
- be able to investigate Indigenous community protocols and strategies to work effectively with Indigenous people and communities; and
- be able to demonstrate skills in research and effective communication.

This topic is divided into the following **sections**:

- What are human rights?
- How Indigenous Australians have struggled to gain their rights over the twentieth century.
- What is the UN Declaration on the Rights of Indigenous Peoples?
- Why Social Justice & reconciliation?
- Social Justice
- Reconciliation

#### **Checklist**

- ☐ Read *Module 2 Topic 4*
- ☐ Read *Required Readings*
- ☐ Optional: Read *Recommended Readings*
- ☐ Optional: Complete *Learning Activities*



## What are human rights?

### *Key idea*

Human rights are “the rights held to be claimable by any living person, irrespective of race, status etc”. (Australian Oxford Paperback Dictionary, 2<sup>nd</sup> ed).

As the definition above states, human rights apply to all people. It does not matter if someone is not a member of the majority group in a country or if they have a different culture to other people; human rights still apply to them.

While the idea of rights and justice for oppressed groups of people has a very long history, since the end of World War II the United Nations (UN) has been the global organisation which has developed statements of human rights and investigated breaches of human rights throughout the world.

The UN has a number of different ‘instruments’ which outline different types of human rights. These include, for example, the Convention for the Elimination of All Forms of Racial Discrimination which sets out the human right to live free from racial discrimination, the International Covenant on Economic, Social and Cultural Rights, which covers human rights regarding economic life or the right to live a distinct cultural life, and the Convention on the Elimination of all Forms of Discrimination against Women which explains the human rights of women.

Many governments around the world (but not all of them) become signatories to these instruments, that is, they agree to uphold the human rights set out by the UN for all of the people who live in their country. Governments also pass domestic laws to protect these rights, for example, the Racial Discrimination Act (1975) was passed in Australia to protect Australians from racial discrimination.

Once a country has become a signatory to these human rights instruments, the UN will investigate their progress towards protecting those human rights on a regular basis. Countries are under no legal obligation to uphold the rights in the instruments, but the UN carries significant moral weight and violating human rights can damage a country’s international reputation.

Indigenous organisations and individual Indigenous people, like all other organisations and individuals, can appeal directly to the UN about violations of their human rights.

### *Reflection*

- What would an ideal society look like if everyone could exercise their human rights?

Indigenous Australians have used the UN human rights system to bring international attention to violations of their human rights, attempting to remedy these violations. As Sarah Pritchard, an international human rights lawyer, has written, “Indigenous peoples’ organisations have been

extremely effective in their efforts to secure recognition by the international legal system of the rights which arise from their specific historical and contemporary experiences" (1998, p.3).

This continues an older tradition of Indigenous people petitioning people both in Australia and overseas to resist violations of Aboriginal rights. The first of these petitions was sent in 1847 to Queen Victoria from Tasmanian Aboriginal people. The petition draws attention to living conditions on Flinders Island where Aboriginal people had been removed to after the "Black War" between Aboriginal people and white settlers in Tasmania (Thompson, 2010, pp. 109-111). You can read the words of that first petition in the Thompson article below.

We will return to issues of human rights in the final week of the subject, but keep the provisions of *The Universal Declaration of Human Rights* (included in the required reading below) in mind as we examine the various struggles for rights which Indigenous Australians have engaged in over the 20<sup>th</sup> century.

### **Required reading**

The United Nations (1946), *The Universal Declaration of Human Rights*. Available at: <http://www.un.org/en/documents/udhr/>

Thompson, J (ed). (2010). 'We humbly pray Your Majesty the Queen will hear our prayer': a petition of the free Aborigines of Van Dieman's Land. *Documents that Shaped Australia: Records of a Nation's Heritage*. (pp 109-111). Millers Point: Murdoch Books. Available <http://www.csu.edu.au/division/library/ereserve/pdf/thompson-j.pdf>



## **How have Indigenous people fought for their rights in the twentieth century?**

### **Key idea**

Although Indigenous Australians largely abandoned armed resistance to European occupation by the twentieth century, they continued to resist and developed new methods of fighting for their rights.

## **The 1920s and 1930s**

### **The Australian Aboriginal Progressive Association (AAPA)**

As John Maynard notes (in the one of the set readings for this week) by the 1920s in NSW, '[the] large-scale revocation of independent Aboriginal reserve lands ... and the brutality of taking Aboriginal children from their families were the galvanising issues that ignited Aboriginal political revolt' (2005, p.1). It was these issues that led to the formation of the Australian Aboriginal Progressive Association (AAPA) in 1925 'the first united politically Aboriginal activist group to form in Australia (Maynard, 2003, p.91). Within a year it had eleven branches and over 500 members. They agitated for the return of land, the abolition of Protection Board powers, a stop to the removal of children and a royal commission (Broome, 2010, p. 204). Although this group disbanded by the late 1920s, others soon emerged.

### **Dubbo and the Aborigines Progressive Association**

Dubbo was a hot bed of Aboriginal political activism from at least the 1920s. One of the most significant Aboriginal protest groups of the twentieth century, the Aborigines Progressive Association (APA), was founded in Dubbo in 1937. While white support was accepted, its membership was limited to Aboriginal people. In 1938 they started a newspaper (using language which would now be deemed offensive) *The Abo Call* to further their cause. This declared that:

"The Abo Call" is our own paper.

It has been established to present the case for aborigines, from the point of view of the Aborigines themselves.

This paper has nothing to do with missionaries, or anthropologists, or with anybody who looks down on Aborigines as an "Inferior" race.

We are NOT an inferior race, we have merely been refused the chance of education that whites receive. "The Abo Call" will show that we do not want to go back to the stone Age.

Representing 60,000 Full Bloods and 20,000 Halfcastes in Australia, we raise our voice to ask for education, Equal Opportunity, and Full Citizen Rights.

[[\*Abo Call\*, no. 1, April 1938](#)]

You can read more from this newspaper here:

<http://trove.nla.gov.au/ndp/del/issues?title=51&yyyyymmdd=1930-01-01&yyyyymmdd2=1939-12-31>

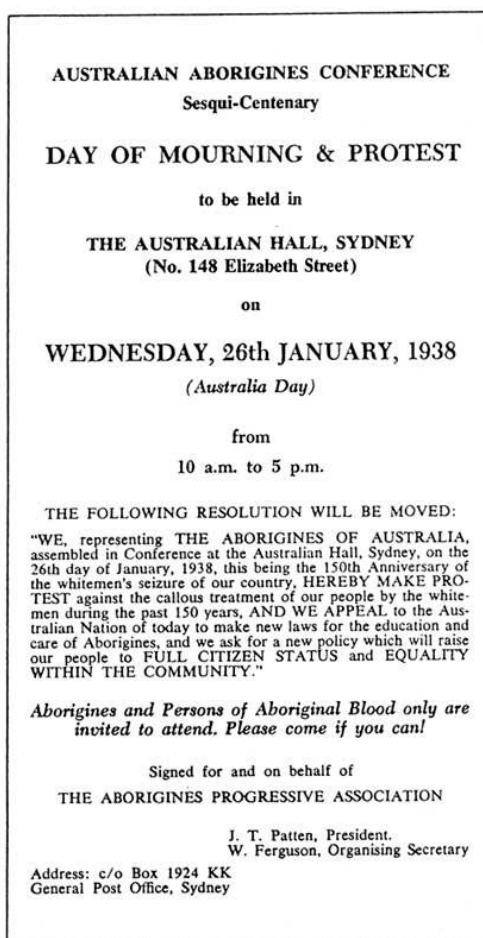
The group soon formed other branches, and made connections with the Australian Aborigines' League in Melbourne. Many famous Aboriginal leaders were associated with the APA – including [William Ferguson](#) (one of the key founders of the APA), [Jack Patten](#), [Bill Onus](#), [William Cooper](#) and [Pearl Gibbs](#).

One of the APA's first major initiatives was to organise the 'Day of Mourning' protest and conference in Sydney on Australia Day 1938 (the 150<sup>th</sup> anniversary of the arrival of the first fleet). Jack Patten and William Ferguson wrote a pamphlet, [\*Aborigines Claim Citizen Rights!\*](#) (Sydney: The Publicist, 1937) to explain the reasons for this protest.

The 26th of January, 1938, is not a day of rejoicing for Australia's Aborigines; it is a day of mourning. This festival of 150 years' so-called "progress" in Australia commemorates also

150 years of misery and degradation imposed upon the original native inhabitants by the white invaders of this country ... You are the New Australians, but we are the Old Australians. We have in our arteries the blood of the Original Australians, who have lived in this land for many thousands of years. You came here only recently, and you took our land away from us by force ...

The Aboriginal Protection Board, which has "protected" the full-bloods of New South Wales so well that there are now less than a thousand of them remaining, has thus recently acquired the power to extend a similar "protection" to half-castes, quartercastes, and even to persons with any "admixture" of Aboriginal blood whatever. Its powers are so drastic that merely on suspicion or averment it can continue its persecuting protection unto the third, fourth and fifth generation of those so innocently unfortunate as to be descended from the original owners of this land.



In January 1938, following the Day of Mourning Protest, they sent a deputation to the Prime Minister, Joseph Lyons, outlining 'Ten Points' for change, which included calls for equal wages, education, health and housing.

Read some of Aboriginal Elder Uncle Ray Peckham recollections about the APA [here](#).  
Uncle Ray is now the Elder in Residence at CSU.



## **Post WWII movements**

### **The Pilbara Strikes, the Yirrkala Bark Petitions and the Wave Hill walk-off: Equal Pay and Land Rights**

Prior to the 1960s large numbers of Aboriginal people worked on outback sheep and cattle stations. They were often paid only in rations, clothing and shelter. Sometimes this was supplemented by small cash payments. Often, such work provided a means for Aboriginal people to remain on their own country, and many developed a sense of pride and agency through work. But equally the conditions of their employment were highly exploitative, and the housing and food provided were extremely basic. The 'cheap labour' supplied by Aboriginal people to the pastoral industries was essential to their development (no other labour was available). Aboriginal people thus contributed enormously to the economic foundations of the Australian nation. But they received few financial benefits for their vital labour. (McGrath, 1987; Broome, 2010, pp. 122-48)

In 1946, Aboriginal pastoral workers in the Pilbara region of Western Australia began the first major campaigns for equal pay. Workers at 22 stations went on strike and the dispute continued for three years. Eventually the employers gave in. The Aboriginal workers were awarded better pay and conditions, but still not equal pay (Broome, 2010, pp. 141-43).

In 1965 the Conciliation and Arbitration Commission began considering a test case brought forward by the Australian Workers Union for equal pay for Aboriginal pastoral workers in the Northern Territory. The following year equal wages were awarded – to take effect from 1968. This apparent victory, however, proved to have mixed outcomes. Now that Aboriginal workers were more expensive, the white owners of the pastoral stations switched to employing white workers. Indigenous families and whole communities were thus turned off properties where they had worked for generations (Taffe, 2008a).

Other important protests were also emerging around the issue of land rights in the 1960s. In 1963 the Yolngu community of Yirrkala in Arnhem Land sent two petitions to the Australian federal government to protest against the mining rights which the government had recently granted to several overseas companies to prospect for Bauxite on the Gove Peninsula where Yirrkala is located. The community were incensed that they had not been consulted, that they were not to receive any benefits from these mining rights, and more fundamentally that the government could actually give their land away in such a manner. The petitions were written on bark paper and contained painted designs proclaiming Yolngu law, depicting the traditional relations to land as well as typed text in both English and Gumatj languages. These petitions from the Yolngu people of Yirrkala were the first traditional documents recognised by the Commonwealth Parliament and are thus the documentary recognition of Indigenous people in Australian law (AIATSIS, 2013; Commonwealth of Australia, 2011: Broome, 227-37).





[source: <http://www.aiatsis.gov.au/collections/exhibitions/yirrkala/home.html>]

Their petition stated that this land had been 'hunting and food gathering land for the Yirrkala tribes from time immemorial'. They were seeking government recognition of their rights to this land and asked that a government inquiry be held to investigate. When their appeals to Parliament failed Yolngu leaders turned to the Supreme Court in the Northern Territory, where hearings in their case, known as the Gove Land Rights Case, began in 1968. This case also failed. In handing down his decision in 1971, the judge accepted that Yolgnu had been living at Yirrkala for tens of thousands of years and that their law was based on intricate relations to land. He held, however, that Australian law could not recognise these as property relations and that this law as it stood could not solve the problem at the heart of the case: that the facts of Australian history disproved the 'legal fiction' of *terra nullius*, on which Australian law was built (AIATSIS, 2013; Commonwealth of Australia, 2011; Broome, 227-37).

This was not the only protest occurring at this time. In August 1966, Aboriginal pastoral workers walked off the job on the vast Vestey's cattle station at Wave Hill in the Northern Territory. The station was on Gurindji land. Their strike lasted over seven years. Led by Vincent Lingiari at first they expressed their unhappiness with their poor working conditions and disrespectful treatment. It thought at first that the protest was simply about wages, and the delayed implementation of equal pay. But it soon became clear that it was a wider protest. The striking workers wanted the return of their land. In 1967 they sent a petition to the Australian Governor General which stated, 'we feel that morally the land is ours and should be returned to us'(cited in Taffe, 2008b). Along with the earlier Yirrkala Bark Petition, the walkout set in motion the modern land rights movement.

In 1975 the federal government intervened to broker a settlement and convinced the Vestey's to return part of the station to the Gurindji. The Prime Minister, Gough Whitlam, travelled to the Northern Territory and handed the deeds to 3300 square kilometre of Gurindji land to Vincent Lingiari. The next year, following on from the Recommendations of the Royal Commission into



Aboriginal Land Rights, the Federal Government passed the [Aboriginal Land Rights \(Northern Territory\) Act, 1976](#). (Broome, 227-37; Taffe, 2008b).

Now, around 50% of the land in the Northern Territory and 85% of its coastline are owned communally by Indigenous peoples.

### **Further Reading/Viewing/Listening**

The song, 'From Little Things Big Things Grow,' written by Kev Carmody with Paul Kelly in 1993 commemorates the Gurindji walkout from Wave Hill Station. You can listen the song here:

<http://aso.gov.au/titles/music/from-little-things-big-things/clip1/>

See also resources at the National Archives of Australia: **'The Wave Hill 'walk-off''**

<http://www.naa.gov.au/collection/fact-sheets/fs224.aspx>

You can watch on ABC television report on the strike, broadcast in 1968, **(including an interview with Vincent Lingiari)**, here:

<http://www.abc.net.au/archives/80days/stories/2012/01/19/3411481.htm>

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## **1967**

### **The 1967 Referendum and the Tent Embassy: From FCAATSI to Black Power**

In 1958, representatives from various Aboriginal groups across the country met in Adelaide to discuss forming a national organisation which would unite existing state bodies to press for greater Commonwealth involvement in Aboriginal affairs and to work for the removal of discriminatory state legislation. They formed a Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI). Although there were some Aboriginal people in this group, its leadership was predominantly white. The group campaigned on a wide array of issues, but soon focussed on one key objective - a referendum to change the Australian Constitution. This campaign was a great success (Taffe, 2005).

In May 1967, Australian voters were asked to vote in a referendum to determine whether two references in the Australian Constitution, which discriminated against Aboriginal people, should be removed. The first reference was section 51, which stated that:


The Parliament shall, have the power to make laws for the peace, order, and good government of the Commonwealth with respect to, clause xxvi, that the people of any race, other than the Aboriginal people in any State, for whom it is necessary to make special laws.

The second was section 127, which stated that:

In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, Aboriginal natives should not be counted.

Over 90 per cent of Australians voted 'Yes' in favour of removing the words, '*other than the aboriginal people in any State*' in section 51(xxvi) and the whole of section 127.





It was hoped that these changes would bring about an end to state-based discriminatory legislation, and allow the Commonwealth government to enact legislation to restore Aboriginal rights (Attwood and Markus, 2007).

### **Voting Rights and Citizenship**

It is widely but wrongly believed that the 1967 referendum gave Aboriginal people Australian citizenship and that it gave them the right to vote in federal elections. Neither of these statements is correct. Aboriginal people became Australian citizens in 1949, when a separate Australian citizenship was created for the first time (before this, reflecting the nation's past as a collection of British colonies, and the fact that the British monarch was all Australians, including Australian Indigenous peoples, were 'British subjects'). Aboriginal people from Queensland and Western Australia gained the vote in Commonwealth elections in 1962. However, the Commonwealth voting right of Aborigines from other states was confirmed by a Commonwealth Act in 1949 (the constitution already gave them that right but it was often interpreted differently before 1949). They got the vote in WA state elections in 1962 and Queensland state elections in 1965 (Chesterman, 2005).

### ***Recommended Reading***

National Archives of Australia The 1967 referendum – Fact sheet 150

<http://www.naa.gov.au/collection/fact-sheets/fs150.aspx>

[NB: this site has some great links to primary sources on the referendum and links to other resources and to other topics - both within NAA and outside]

### **Black Power and the Tent Embassy**

While there were certainly some improvements in Aboriginal rights by the early 1970s, there was still much dissatisfaction about key issues such as land rights. More radical politics emerged. This was illustrated by the split in FCAATSI in 1970. Growing Indigenous dissatisfaction about their lack of power in the organisation came to a head at the 1970 conference. Motions were put that voting power and executive positions should be limited to people of Aboriginal or Islander descent. Kath Walker (who would later change her name to Oodgeroo Noonuccal) had argued strongly and passionately for Indigenous people to take control of their own affairs. In 1973, FCAATSI did finally become an Indigenous-controlled organisation. But it disbanded by 1978 as other groups emerged. This split reflected emerging ideas about Black Power (influenced by movement in the US).

Late on Australia Day 1972, four young Aboriginal men erected a beach umbrella on the lawns outside Parliament House in Canberra and put up a sign which read 'Aboriginal Embassy'. They were primarily motivated by the lack of progress being made on the issue of land rights. Over the following months, supporters of the embassy swelled to 2000. When the police violently dismantled the tents and television film crews captured the violence for the evening news, an outraged public expressed its disgust to the federal government. The site became known as the 'Tent Embassy' and it remains on the lawns of Old Parliament House in Canberra to this day.



## Required Reading

Attwood, B. and Markus, A. (1999). *The Struggle for Aboriginal Rights: A Documentary History*. Sydney: Allen & Unwin. [pp. 58-64; 170-175; 276-81]. Available as an eBook: <http://www.csuau.eblib.com.ezproxy.csu.edu.au/patron/FullRecord.aspx?p=315031>

[You could also look at some of the primary documents contained in this book, most written by Aboriginal activists. Please also note that **this text uses terminology which would now be deemed inappropriate**, especially the use of Aborigine/s throughout. Please do not imitate this language in your own writing.]

## Reflection

- Why might Indigenous Australians have had such an ongoing struggle to have their human rights recognised?
- What does it say about the strength of Aboriginal communities and their survival?



## What is the *UN Declaration on the Rights of Indigenous Peoples*?

### Key idea

The *UN Declaration on the Rights of Indigenous Peoples* is an aspiration document that is a remedial instrument designed to rectify a history of failings.

As we discovered above, Indigenous Australians have made use of the existing human rights instruments through the UN to help protect their human rights. But Indigenous Australians have also worked together with indigenous people from around the world to develop their own instrument, one that enshrines indigenous-specific human rights. This is the UN Declaration on the Rights of Indigenous Peoples, developed over the course of 20 years and signed in 2007. James Anaya, the UN Special Rapporteur on the Rights of Indigenous Peoples, has stated there should not have to be a special instrument to protect the rights of indigenous peoples, because all people have human rights. However, due to the particular historical and contemporary experiences of indigenous peoples there is a need for this special instrument (Anaya, 2009, pp.58-63).

The *UN Declaration on the Rights of Indigenous Peoples* is significant to Indigenous Australians for a number of reasons:

- The Declaration took over twenty years of negotiation by indigenous peoples, governments and human rights experts. Many Aboriginal and Torres Strait Islander people were heavily involved.
- The Declaration is significant because indigenous peoples were involved in drafting it. This means the people who held the rights directly participated in the development of the instrument to protect those rights.
- The Declaration is recognition that indigenous peoples are entitled to all human rights as a collective.
- The rights in the Declaration are standards to ensure the survival, dignity and well-being of indigenous peoples. (Human Rights Commission, 2009, p. 6).

A number of countries refused at first to sign the *Declaration on the Rights of Indigenous Peoples*. Australia was one of those countries, as well as New Zealand, the United States and Canada. In April 2009 the Australian Government changed its position and endorsed the *Declaration on the Rights of Indigenous Peoples*.

### **Learning Activity: This Learning Activity asks you to post on the forum**

- List some of the rights that Aboriginal people have fought for in the 20<sup>th</sup> century and how they have fought for them.

Share on the forum.

- Here are links to the [UN Declaration on Human Rights](#), and the [UN Declaration on the Rights of Indigenous Peoples](#).

Think about what you have learned from previous modules, and identify one Human Right and one Indigenous Right that relates to Indigenous Australians and their circumstances.

Summarise the Right and what it relates to/ is intended to overcome.

Share on the forum.

**This learning activity will help you prepare for Assessment 3!**



## **Why Social Justice and Reconciliation?**

It is important to establish an understanding of the concepts of social justice and reconciliation. You have probably heard of these terms. They are not the same as Human Rights and Protocols for engagement which are addressed elsewhere in this subject. Social Justice and Reconciliation are more concerned with the *outcomes* of implementing Rights and using effective and respectful engagement strategies. Social Justice and Reconciliation explain *why* Indigenous Studies is part of

your course and is considered important by your profession. These two ideas are based in values that may be held by individuals and promoted in society.

Social Justice is when all citizens are able to take advantage of the benefits and opportunities in society. It argues that the resources of society should be distributed in such a way that those who have certain needs receive extra support, so that the end outcome is an equal playing field. It is not the same as 'treating everyone equally'.

The aim of Reconciliation is to bring Indigenous and non-Indigenous people together, to acknowledge the past and co-create the present and future. This may mean that those in dominant positions in society have to give up some of their power, position and cultural dominance to make space for Indigenous Australians and Indigenous perspectives.

Ways to achieve these two things include considering Human Rights and Indigenous Rights obligations and using appropriate engagement strategies.



## Social justice

### Key idea

'Social justice' is a term commonly used to describe notions of equality or access to equal rights for all members of a society.

Social justice is closely linked to the notion of human rights. Having access to equal rights is generally seen to include the right to good health and to live in health promoting environments, the right to a quality education and meaningful employment, equality before the law, the right to practice one's culture, and the right to self-determination over one's life. These rights might also be described as citizenship rights.

Australia as a nation has a history of promoting itself both domestically and internationally as an egalitarian society founded on the principles of democracy and social justice. In other words, a land in which all people, regardless of heritage or social circumstance, have equal access to society's valued resources and rights, along with equal ability to achieve to their full potential. However, Indigenous Australians face disadvantage in all social indicators related to health, education, employment and criminal justice. This is a consequence of the ideology of 'race' and over two hundred years of economic, social and political marginalisation.

Thus, social justice has been described by the former Aboriginal and Torres Strait Islander Social Justice Commissioner, Professor Mick Dodson, as something which

... must always be considered from a perspective which is grounded in the daily lives of Indigenous Australians. Social Justice is what faces you in the morning. It is awakening in a house with an adequate water supply, cooking facilities and sanitation. It is the ability to nourish your children and send them to school where their education not only equips them for employment

but reinforces their knowledge and appreciation of their cultural inheritance. It is the prospect of genuine employment and good health: a life of choices and opportunity, free from discrimination (Annual Report of the Aboriginal and Torres Strait Islander Social Justice Commissioner, 1993, introduction).

### **Required reading**

The Australian Human Rights Commission explains the concept of social justice:

<https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/about-aboriginal-and-torres-strait>



## **Reconciliation**

### **Key idea**


A formal process of Reconciliation was initiated by the Federal Labor government in 1991 and lasted for 10 years. Reconciliation continues as a concept and as a social movement in Australia and is closely tied to Indigenous struggles for social justice.

A Council for Aboriginal Reconciliation operated during this decade-long formal reconciliation process. The Council argued that the empowerment of Indigenous Australians must be based on a new relationship between Indigenous and non-Indigenous people, one which is free of the ongoing process of political and social subordination currently acting as a barrier to improved relations. In other words, the Council stressed that this new or reconciled relationship between Indigenous and non-Indigenous Australians must be based on self-determination and acknowledgement of the human rights of the Indigenous peoples of Australia.

The Council also measured reconciliation, however, by the preparedness of governments and the wider Australian community to ensure that Indigenous Australians not only have access to their rights but are empowered to enforce and practice them. Indeed, in the words of the Council:

[b]y virtually every test on the range of usually accepted social indicators such as rates of unemployment, rates of custody, rates of infant mortality, life expectancy, household income and other indicators, Aboriginal and Torres Strait Islander individuals and communities are now, and have been in the past, at a serious disadvantage. This disadvantage arises because of the long-term failures by Commonwealth, State, Territory and local governments to ensure that Indigenous individuals and communities have access to their citizenship rights. Governments have maintained the process of subordination through their policies and strategies in responding to Aboriginal and Torres Strait Islander people's calls for justice and greater control over their lives (Council for Aboriginal Reconciliation, 1995, 26-27).





Thus, reconciliation is intimately connected to social justice, as the Council for Aboriginal Reconciliation pointed out, “[t]here can be no reconciliation without social justice” (Council for Aboriginal Reconciliation, 1995, 22)

## References and further reading

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[This is a collection of primary source documents, most written by William Cooper from 1887-1940.]

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**You have finished Module 2, Topic 4!**