TREATY IN QUEENSLAND

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What is Treaty?

Treaty is an agreement.

Treaty is a legally binding settlement involving two or more parties, nations, groups, organisations or interests.

Treaty is reached after a process of negotiation and not merely consultation. Consultation can be understood as a one-way process. Negotiation, on the other hand, involves parties coming to the table as equals working towards a mutually beneficial resolution.

Treaty can also be called a Settlement, Agreement, Pact, Accord, Covenant or Compact. Regardless of name, they all bind parties together in agreement, outline their rights and obligations, and define the 'rules' of their relationship.

Throughout history, nations have formed treaties with the Indigenous peoples of the lands they colonised. New Zealand, Canada and the United States are examples. Australia as a nation, however, has never 'treated' with its First Nations.

References

Click to view resource online (if supported)
1. SBS, Explainer: What is a Treaty?
3. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Articles 3 & 4
4. NITV, Treaty for Dummies
The first recognition of Aboriginal peoples’ rights in legislation in Queensland was in 1885, where the Elections Act 1885 was enacted. Within Section 6, it explicitly excluded “Aboriginal natives” from having the ability to vote. This exclusion was subsequently carried on into the Elections Act Amendment Act 1905 and the Elections Act 1915. An exception to this exclusion is if the Indigenous persons could identify as a ‘half-caste’.

In 1897, the Queensland Government implemented the Aboriginals Protection and Restriction of the Sale of Opium Act 1987, which inhibited basic and universal freedoms regarding issues of custody of children, control over personal property, movement and labour for many Aboriginal peoples. The control over Aboriginal affairs through the states continued in 1901, which is the year the Commonwealth of Australia was created. Section 127 of the Commonwealth Constitution specified that ‘in reckoning the number of people “Aboriginal natives” shall not be counted’.

Mabo and a group of Meriam people brought forward a second case, adjourning the first hearing, which challenged the constitutional validity of the Queensland Coast Islands Declaratory Act 1985. In an attempt to pre-empt the case, the Queensland Parliament passed the Queensland Coast Islands Declaratory Act 1985. This legislation aimed to retrospectively prevent the rights claimed by the Meriam people. This resulted in the High Court having to reconsider if the legislation was effective and valid. It was found that the Queensland Coast Islands Declaratory Act conflicted with the Racial Discrimination Act 1975. This brought upon the continuation of the Mabo v. Queensland (No.2) case.
History of Treaty Queensland

1992

On 3 June 1992, the High Court determined that the lands of this continent were not terra nullius and that the Meriam people were ‘entitled as against the whole world to possession, occupation, use and enjoyment of (most of) the lands of the Murray Lands’.

1993

The High Court judgments in the Mabo v. Queensland (No.2) altered the foundation of land law in Australia and paved the way for the passing of the Native Title Act 1993 (Cth) in the Australian Parliament the following year.

2010

In 2010, the preamble of the Queensland Constitution was amended to ‘honour the Aboriginal peoples and Torres Strait Islander peoples, the First Australians, whose lands, winds and waters we all now share; and pay tribute to their unique values, and their ancient and enduring cultures, which deepen and enrich the life of our community’.

2018

In 2018, The Queensland Government implemented a Reconciliation Action Plan (RAP) that aims to have all actions and targets completed by 2021. Reconciliation Australia has said that the implementation of this RAP has marked the Queensland Government as a ‘leading advocate for reconciliation in Australia’. The application of the RAP across all arms of Queensland government aims to create greater respect, stronger relationships, and more opportunities for Aboriginal and Torres Strait Islander Queenslanders.

2019

Earlier this year, the Human Rights Act 2019 was passed by Queensland parliament, significantly enhancing the cultural rights of Aboriginal and Torres Strait Islanders.

References

Click to view resource online (if supported)
2. AIATSIS, ‘Mabo case’
Where are we up to?

At the end of NAIDOC Week in 2019, the Queensland Government signed a Statement of Commitment within the Tracks to Treaty, an initiative aimed at reframing the relationship with the First Nations of Queensland. Tracks to Treaty aspires to encourage the progress on reconciliation, by continuing to recognise, respect and speak the truth of Queensland’s First Nations People. This initiative will run at all levels of government; state-wide, regional and local.

“We hope that this process goes some way to right the wrongs of the past and sets the foundation for a new and just relationship towards our shared future”

Jackie Trad, Deputy Premier and Minister for Aboriginal and Torres Strait Islander Partnerships

Queensland’s reframed relationship is to be ‘underpinned by the principle of self-determination and actioned through truth-telling, empowerment, agreement making and high expectations relationships’. At the state-wide level, this will be achieved through the Path to Treaty – the Queensland Government’s commitment to beginning the journey towards negotiated treaties with the First Nations of Queensland.

The Eminent Panel of Aboriginal and Torres Strait Islander Queenslanders and Indigenous Queenslanders will be one of the leading forces, delivering the commitments of The Path to Treaty. They will be working along Aboriginal and Torres Strait Islander communities, ensuring that key requests and considerations are acknowledged. The panel’s ultimate goal is to ensure the best interests of all Queenslanders are met and respected. Of this panel that will consist of Indigenous and non-Indigenous Queenslanders, Jackie Huggins and Michael Lavarch AO will be serving as co-chairs.

References

Click to view resource online (if supported)
2. Queensland Government, ‘Statement of Commitment’
4. Department of Aboriginal and Torres Strait Islander Partnerships, ‘Path to Treaty’
“What Aboriginal people ask is that the modern world now makes the sacrifices necessary to give us a real future. To relax its grip on us. To let us breathe, to let us be free of the determined control exerted on us to make us like you... recognise us for who we are, and not who you want us to be. Let us be who we are – Aboriginal people in a modern world – and be proud of us.

Acknowledge that we have survived the worst that the past had thrown at us, and we are here with our songs, our ceremonies, our land, our language and our people – our full identity. What a gift this is that we can give you, if you choose to accept us in a meaningful way”

Referendum Council member, Galarrwuy Yunupingu in his essay ‘Rom Watangu’