
Social Justice Report 2005

FACT SHEET TWO:

Shared Responsibility Agreements



The term '*Shared Responsibility Agreement*' (SRA) describes agreements between Aboriginal and Torres Strait Islander communities and groups and Australian governments based on the principle of mutual obligation. The principle of mutual obligation requires both parties, the community and the Government to each contribute towards making the agreement work. This fact sheet looks at SRAs in the light of human rights principles and considers developments during the first 12 months of SRA-making.

Human rights principles and SRAs

SRAs have the potential to improve or undermine Aboriginal and Torres Strait Islander peoples' enjoyment of their human rights. There are two main issues to be considered in assessing any given SRA from a human rights perspective: the community's participation in its development and the content.

Quality of participation is important

Only a community knows what their needs are and what might work to address them. There are many lessons from the past that show that when governments force change onto communities, the change is often ineffective or not sustainable. To make change long term and successful, communities must have a sense of ownership and participate in all decision making processes. This is upheld by human rights principles.

The quality of participation is the key to unlocking the potential of Shared Responsibility Agreements. In human rights terms, they should be made with the free, prior and informed consent of the people affected by them.

Free, prior and informed consent means the following:

- *Free* - implies no coercion, intimidation or manipulation during SRA-making.
- *Prior* - implies that enough time has been allowed for meaningful community consultation and consensus building about any given SRA.
- *Informed* - implies that all the information necessary to make a decision about any given SRA has been provided and understood.
- *Consent* - the withholding of consent from any SRA should be a freely available option.

In practice this means that a SRA may be only one option among many considered by a community in response to a specific community need. They should not be imposed or made in an atmosphere of fear, or negotiated with inappropriate community representatives.

When a Shared Responsibility Agreement makes Indigenous peoples' access to core minimum human rights entitlements (such as safe drinking water, essential medicines, sanitation, primary health care) conditional on behavioural changes it is potentially in breach of human rights.

A more complicated area is where governments agree to provide a subject matter through a SRA that is *related* to the delivery of basic entitlements or essential services, such as housing, water supply, education or health. It is crucial to ensure that such a SRA does not make the delivery of the actual service or entitlement contingent on meeting obligations for it to comply with human rights obligations.

It should be noted that a SRA may still breach human rights if: it provides a benefit that is over and above essential services; if it is provided in a manner that is discriminatory; or that makes addressing existing inequalities contingent upon the completion of mutual obligation principles.

Compliance of SRAs with human rights

Over one hundred SRA's have been signed in the past year. I have had the opportunity to visit a number of communities that have made SRA's and I have also received copies of the written agreements.

Great care must be taken in passing judgment on individual SRAs. What may at first appear to be a problematic condition in a SRA may in fact represent a solution to a long term problem faced by the community.

Participation: Most of the communities I visited were satisfied about the way the government had directly engaged with them and about the SRA they had made. However, there are some potential areas of concern:

- 18 months into the new arrangements and there appears to be a continued absence of a comprehensive information campaign to fully engage with communities to educate them about the new processes. This raises concerns about the basis on which communities are entering into negotiations on SRAs and particularly, whether communities are able to proceed on an informed basis.
- A small number of communities perceive that they are being 'processed' into making SRAs. This is not conducive to the community giving free, prior and informed consent to the agreement
- A number of agreements involve the government making Community Development Employment Program (CDEP) scheme places available to complete the activity agreed upon in the SRA. A concern with this is that the obligations for CDEP participants must be understood by the community to be separate from the obligations to be undertaken by the community as part of the SRA. The danger is that SRAs and the receipt of income support benefits may become inappropriately linked by community members.

Content: Consultations with communities who have finalised a SRA revealed that generally, subject matters provided through the SRA, reflect the desires of those communities. Many SRAs completed in the past year resulted in tailored services being delivered to meet the different needs of communities, culturally appropriate service delivery and/or improved accessibility of mainstream services, or increases to the

limited economic development opportunities in remote communities. These are all positives from a human rights perspective.

Other issues

The SRA process is an evolving one. At this stage the process appears to lack some of the key elements necessary to ensure the appropriate engagement of Indigenous communities. In particular:

- There is limited information available publicly about the content of SRAs. SRAs are not made available publicly because of privacy reasons, although summaries of most of the agreements that were finalised in 2004-05 have been placed on a government website at: www.indigenous.gov.au/sra.html.

It is important to find out if SRA's are working for Indigenous communities. In particular:

- Establishing benchmark data and rigorous monitoring are required to make sure governments are transparent in all actions and decisions relating to SRAs - it is important to find out if SRAs are improving the lives of Aboriginal and Torres Strait Islander peoples who live in the communities affected by the SRAs.