

Statehood, politics and Aboriginal health

Central Australian Aboriginal Congress

Submission

to

- **The House of Representatives Standing Committee on Legal and Constitutional Affairs,**
- **The Northern Territory Standing Committee on Legal and Constitutional Affairs, and**
- **The Northern Territory Statehood Steering Committee**

20 November 2006

Structure of the document

The Central Australian Aboriginal Congress submission to Australian and Territory government committees concerned with statehood has two elements. The first is made up of description and analysis of matters related to Northern Territory politics, statehood and Aboriginal wellbeing. This element forms the context for Congress' specific proposals, the second element in the submission. Congress' recommendations are set out in bordered text (boxes) throughout the document.

What this submission is about: A summary

Statehood for the Northern Territory is a continuing political issue. The House of Representatives Standing Committee on Legal and Constitutional Affairs is inquiring into the Federal implications of statehood for the Northern Territory. This is at the same time as the Northern Territory Government's own Statehood Steering Committee conducts its public education program to allay fears and prepare voters for another referendum. The 'unique selling point' behind this campaign is that statehood will make everyone in the Northern Territory equal to all other Australians.

A problem with this grand promise is that the Steering Committee is also reassuring people that statehood will make no difference to their everyday lives. Despite the declaration that 'Statehood is a rare opportunity for us all to have a say in how we are governed into the future', no proposals for alternative governmental systems are put forward or encouraged. The ambition is to attain a model of government in line with

that in the Australian states. However, the Territory's demographic structure and needs are fundamentally different to those of any state.

The Territory population is generally thought of as about 30 per cent Aboriginal. This is so much greater than the states (all with less than 4 per cent Aboriginal) that it alone warrants a different model of political representation. But the gap is even larger. This is because Aboriginal citizens are permanent residents of the Northern Territory, and the non-Aboriginal population is relatively transient – and vastly more so than elsewhere in Australia.

Short-term residents are likely to have quite different interests in the Territory and its future than those who are permanent. Aboriginal people make up the majority of the Territory's long-term citizens and stakeholders. They are born here, and they do not leave on retirement. However, non Aboriginal people have disproportionate political sway. Amongst policy makers, themselves often transient, they rule.

If Aboriginal people are to gain a degree of political influence that matches their numbers and continuing stake in the NT, two types of benefit are possible. The first benefit would follow from their increased capacity to direct public resources in directions that ensure improvement in Aboriginal health and well-being. This would be through better health, education and welfare services, employment opportunities, and other measures directed at reducing exclusion and institutional racism.

The second, and obviously related, type of benefit concerns social status. With a more appropriate and inclusive political system, the status of Aboriginal people is likely to increase – along with their sense of control over their futures. There is now a great deal of evidence to show that social status and peoples' experienced capacity to shape their own lives has a critical effect on health and well-being.

In this submission, Congress sets out the issues and evidence relating to statehood. It also proposes a range of governmental reforms of the kind necessary for Aboriginal people to achieve equity in health and other aspects of their lives. With the support of the Commonwealth, such reforms could be made with or without statehood.

The failed referendum

The 1998 referendum on statehood for the Northern Territory saw 51.3 per cent of voters say no. Remarkably, this was despite support for a 'yes' outcome by both major political parties. Loss of the referendum was partly due to the Aboriginal vote, fuelled by circulation of a set of objections and claims adopted at a meeting of Central Australian Aboriginal organizations six weeks before the referendum.¹

This particular Aboriginal opposition to statehood centred on (1) the failure to negotiate the proposal with Aboriginal people, and (2) the lack of consideration for Aboriginal interests in the Draft Constitution for the proposed new state. What was

wanted as a condition of support for statehood was sincere and properly resourced negotiations between the government and the Aboriginal people to achieve an acceptable constitution. Other conditions concerned matters such as Aboriginal self-determination and proper government accountability; recognition of Aboriginal law; protection of land rights, sacred sites, and human rights; and measures to ensure equal access to essential infrastructure and services, including appropriate education.

The continuing quest for statehood

When the statehood referendum was voted down (on 3 October 1998), the NT government was shocked but undeterred. Four days later it asked the Standing Committee on Legal and Constitutional Affairs to inquire into the reasons for the failure of the referendum and recommend ‘appropriate means whereby community support for Statehood could be achieved’. The resulting (April 1999) *Report on Appropriate Measures to Facilitate Statehood* provided the framework for further efforts – founded on ‘a public education program’.²

In May 2003 the Labor government renewed the campaign. Unlike previously, education styled as consultation was now meant to ensure that the majority of voters are onside by the time of a second referendum in 2008.³ Subsequently, the government drew back from this target date, saying that ‘the process is not fixed’ and is ‘a matter for Territorians’ (*Fact Sheet* 18).

To promote statehood the government dominated Committee on Legal and Constitutional Affairs⁴ appointed a Statehood Steering Committee, including three MLAs. Five of the seventeen listed members are Aboriginal.⁵ Though support for statehood is bi-partisan, through the Terms of Reference and a largely compliant Steering Committee the government is firmly in charge of the agenda. The purpose of the Steering Committee is ‘to provide advice and assistance to the Committee on Legal and Constitutional Affairs’. Both committees have the same Chair person.⁶

The members of the Steering Committee are meant to be ‘prime messengers’ in selling the statehood concept (Communication Strategy). Steering Committee stationery carries the phrase ‘Together towards statehood’. The website⁷ declares that ‘Each Committee member is dedicated to working ... towards Statehood’. Clearly, the Statehood Steering Committee’s prime role is in public relations to promote statehood.

The promotion process is largely about calming fears and talking up Statehood’s importance. This is through meetings and presentations and published material, available through the website. A review of the Steering Committee’s 25 Fact Sheets shows that the process is not about open consultation and the exploration and exchange of ideas. Other than the *status quo*, alternatives to statehood are unacknowledged. Though the Steering Committee says it ‘welcomes positive and negative views about statehood’, it mentions only positives.

Congress expects that any proposal for a new state will be agreed with Aboriginal people. This needs more than guided consultation. A fully informed and resourced negotiation process with freely chosen Aboriginal representatives is required.

Principles about government accountability; Indigenous rights, including land rights; freedom from discrimination; and equitable access to essential services and infrastructure, including appropriate education, should be embedded in a new state constitution.

As a primary health care organization, Congress recognizes the vital importance of provisions for health. Congress wants to see the right to health clearly stated in a Northern Territory constitution. Such a right is recognized in many countries' constitutions.⁸

Territorianism as a 'unique selling point'

The government's sales pitch relies heavily on the notion of 'Territorianism'. This embodies the image that as a group 'Territorians' are 'unique and different', and proud of a special 'Territory Lifestyle' (*Fact Sheet 25*). The expression 'Territory Lifestyle' promotes the belief that life in the Territory is 'laid back' and 'free spirited'. Consistent with this is the commonly expressed view that 'Territorians' are not too keen on restrictions over things like drinking alcohol and driving and other risk laden activities. In the words of one commentator, 'Territorians love their lax laws'.⁹

Typically, 'Territory Lifestyle' does not refer to Aboriginal culture. Though the term 'Indigenous Territorian' is employed by government to imply racial inclusion, it is hardly used by Aboriginal people themselves. 'Territorian' is an expression, often used in pursuit of non-Aboriginal political interests or agendas, such as statehood. The strong message is that 'Territorians' are unified by common interests, ones that are not understood by people elsewhere, especially Canberra.¹⁰ The idea is marketed in very simplistic terms; such as 'Being "Territorian" is what makes us different' (*Fact Sheets cover*).

Statehood means equality for all!

The Statehood Steering Committee's Communication Strategy centres on identification of a 'unique selling point' – that 'Statehood means equality; Territorians remain second class citizens so long as we are denied statehood'.¹¹ Examples from the *Fact Sheets* of promotional hype used to sell statehood in this way are:

- ‘Statehood would make all people in the Northern Territory equal to those people living in the states of Australia’ (*Fact Sheets* cover)
- ‘Statehood means a fair go for all, Territorians equal to all other Australians at last.’ (*Fact Sheet 1*)
- ‘It is only by becoming a State that Territorians can achieve equality with all other Australians.’ (*Fact Sheet 4*)

This hype is very cynical and overlooks the gross imbalance in status and power between Aborigines and non-Aborigines. It suggests that the only issue of fairness worth pursuing is the Territory not being a state. Moreover, it falsely suggests that statehood will mean all residents of the NT will suddenly become truly self-determining and equal with other Australians. Statehood will somehow bring with it ‘a fair go for all’.

Congress wishes to see more balance in the public education process. Through the Statehood Steering Committee, the government should be promoting informed consideration of the issue. This means fully explaining a range of viewpoints. The use of marketing gimmicks is not appropriate.

Unless it can be demonstrated that statehood will deal with the inequalities between Aboriginal people and other Australians, the government should drop all suggestions that statehood means that Aboriginal people will become equal.

The projected (minimalist) model for a new state

Currently, the NT is a self-governing territory of the Commonwealth. It operates like a state, and often refers to itself as a state.¹² The Commonwealth often refers to the NT as a state too.¹³ The NT government participates ‘in national forums on the same basis as the states’.¹⁴ Most people, Aboriginal or non-Aboriginal, could not clearly explain the distinction between a state and territory. In ordinary life, they do not experience any difference. Federal revenue, mostly from the GST, is split up between states and territories in accordance with the relative cost of delivering standard services. Federally, the NT is treated the same as a state and, but with ‘over four times the average per capita share of GST revenue’,^{15 16} is considered the leading financial beneficiary.

The Commonwealth is able to legislate to overturn Territory legislation as it did with the *Rights of the Terminally Ill Act 1995*, in 1997. However, this is the only such intervention. In the NT, the Commonwealth has some powers that it does not have for states, such as over uranium mining, Aboriginal land, and two national parks.¹⁷ However, these powers are few, and their use is subject to the Commonwealth’s own electoral accountability. In any case, where there is conflict all state laws must give way to those of the Commonwealth.

The Steering Committee's claim that 'Statehood affects your everyday life because it would make you more equal' (*Fact Sheet 9*) is at best empty. Just how it would affect everyday life is unexplained. The only options envisaged in the Steering Committee's materials concern matters like the number of representatives in Canberra, not the structure of the government – and just what interests it is accountable to. Though the Steering Committee solicits views about a name for the new state (*Fact Sheet 8*), it does not encourage suggestions on alternative governmental structures.

Don't worry

As part of its mission to dispel fears, a key theme in the Steering Committee propaganda is that, apart from gaining additional constitutional rights, changes will be minimal. In this vein, one *Fact Sheet* (#6) says 'Statehood for the NT will not change the current [supposedly favourable] financial arrangements with the Commonwealth'. Another *Fact Sheet* (#9) says that 'Statehood should not cost Territorians a cent extra'. Yet another (#12) headed '**Territory way of life: Firecrackers and speed limits**' reassures 'Territorians' that statehood will not impact on their existing 'way of life'. It reads in part: 'Statehood will not threaten our ability to have firecrackers'!

The topic of one *Fact Sheet* (#20) is '**Statehood – What does it mean for me?**' Its ten points begin: 'Statehood means some differences that I may not notice in everyday life'. In fact, it mentions nothing at all that will have any noticeable impact on everyday life. Other than allaying worry, the only concern is with constitutional status. Similar themes are prominent in other Fact Sheets.

Congress' view is that the minimalist, 'business as usual', model of statehood currently being promoted can do nothing to improve the circumstances of Aboriginal people.

Congress urges a quite different approach. Rather than saying no one should worry, the NT government should take the initiative. It should show how, through a reformed model of government, a real difference can be made to Aboriginal health and well-being.

This new model of government should be the key element in the Northern Territory government's plan for dealing with Aboriginal disadvantage.

The problem with a minimalist approach: The NT is different

The position of the Statehood Steering Committee is that the NT should attain statehood on the same terms as the existing states.¹⁸ This goal overlooks the fact that the NT is so demographically unlike the states that a very different model of government and political representation is warranted. And this is quite aside from the

question of whether states are necessary at all, an issue sidestepped in the NT's quest for statehood.

Population turnover

The 2001 Census found the NT population to be 197,768 – of which 29 per cent (56,875) was Aboriginal.¹⁹ In no other jurisdiction (territory or state) do indigenous people constitute more than four per cent of the population.²⁰ Also, stark as it is, this comparison understates the practical or effective population difference between Aboriginal and non-Aboriginal populations, as well as between the Territory and states. A single population figure hides even sharper variations in the ratio of Aboriginal to non-Aboriginal populations across the age spectrum.

The most fundamental reason for under-statement of the differences is that point-in-time population figures do not say anything about how long people stay in the Territory and their degree of belonging, ownership or 'stake holding'. The Aboriginal population is long term; the non-Aboriginal population is relatively transient. Shorter-term residents are likely to have quite different interests in the Territory and its future than those who are permanent.

Unfortunately, the term 'Territorian' when applied to all residents hides such distinctions. A fitting remark is that non-Aboriginal people who move from and to the states are more correctly described as 'transient Australians' than 'Territorians'.²¹

Census data do not tell us enough about how long people have been in the Territory and whether or not they were born here. However, there are proxy indicators. We know, for example, that the Territory's non-Aboriginal population is exceptionally mobile nationally. The NT Under Treasurer reports that '70 per cent of the Territory's population is subject to incredible churn'. She also states that 'Interstate migration occurs almost entirely in the non-Indigenous population'.²²

The NT's population turnover²³ is vastly in excess of any state. Between 1996 and 2001 there were 171,700 gross moves – equal to 89 per cent of the NT population, and 4.6 times the Australian average. No state has a population turnover higher than Tasmania's, which is 28 per cent.²⁴

A majority of the long term population

Another authority indicates that between eight and ten per cent of the NT population relocates interstate each year, compared to two per cent for the whole country. An estimated 23 per cent of the Territory's population in 2001 was not living in the Territory in 1996.²⁵ Since very few of that 23 per cent would have been Aboriginal, this means that over 32 per cent of the non-Aboriginal population was not present five years previously. This is consistent with another finding that 3 out of 10 non-Aboriginal people migrated out of the NT between 1996 and 2001.²⁶ What all this points to is that Aboriginal people constitute a significant majority of the long-term citizens and stakeholders of the Northern Territory.

Other data support this. The NT has the youngest age structure in the Commonwealth. It also has less than a third the proportion of older people. The Territory's population is not ageing like the rest of the country. This pattern is partly due to the high Aboriginal fertility rates. For 2004-05, 42.5 per cent of births in the NT were Aboriginal,²⁷ and 4.7 per cent for Australia.²⁸ The lower life expectancy of Aboriginal people also contributes to the NT having the youngest median age – six years less than for Australia.

A young age structure also appears to be due to the proportion of people who come from the states to work and who depart when they finish their assignment or retire. 'Many jobs in the Territory are fixed-term postings ... in which return migration is planned at the outset'.²⁹

Non-Indigenous people in the NT are concentrated in the work force age category. In 2001, their peak five-year age bracket was for 30-34 year olds, and they represented 75 per cent of that age group population. For Aboriginal people the peak five-year age bracket was 5-9 years, where they represented 40 per cent of the total. For 50-54 year olds, non-Aboriginal people made up 85 per cent of that age group population.³⁰

Non-Indigenous 'Territorians' retire interstate

There are far fewer older people in the NT than elsewhere. In 2001, only 3.9 per cent of the NT population was 65 and over, compared to 12.6 for Australia as a whole. This is not simply due to the relatively short Aboriginal life expectancy. Despite the fact that on average Aboriginal people in the NT die 16 (females) – 19 (males) years younger, Aboriginal people still constitute 22 per cent of people 65 and over. This means that non-Aboriginal people exit the NT. In fact, proportionately, from age 40 the non-Indigenous population of the NT declines more than the Indigenous population.³¹

In 2004-05, 50.3 per cent of deaths in the NT were Indigenous,³² representing .78 per cent of the Indigenous population. The non-Indigenous people who died constituted .31 of the non-Indigenous population. The total number of deaths was .45 per cent of the NT population.³³ Expressed another way, this is a crude death rate (deaths per thousand) of 4.5 – as against 6.6 for Australia as a whole.^{34 35}

A clear indication here is that non-Indigenous 'Territorians' prefer not to die in the Northern Territory but elsewhere, and this is quite likely to be in their state of origin. This is consistent with the observation that these

transient Australians ... often retain a strong 'place attachment' to their home region through, for example, home ownership, social and family connections, telephone calls, short term visits, interstate newspaper readership and sports team support.³⁶

Other differences

To distinguish the NT further, there are also the well known data contrasting Aboriginal and non-Aboriginal well being. These focus on issues such as health and life expectancy, loss of life-years, violence, imprisonment, education, housing, income and employment. Because its Aboriginal population is so relatively large, the overall picture in the NT is very different from the states.

Cultural contrasts with non-Aboriginal Australia are also sharp. Nearly ninety per cent of Aboriginal people in the NT identify with a clan, tribal or language group. Thirty-seven per cent live on their traditional country. Seventy-seven per cent speak an Aboriginal language, and sixty three per cent do not use English as their main language at home – five times more than the highest state, South Australia, and at least 37 times more than in Queensland. In three states the figure is no more that one percent.³⁷

Geographically, the ‘Aboriginal domain’ is vast. Aside from land held by others but which Aboriginal people consider their country, fifty per cent (1.3m km²) of the Northern Territory is under inalienable freehold title – on which 70 per cent of the Aboriginal population lives.

Congress urges equitable political representation and influence, reflecting the Northern Territory’s unique and sharply divided population structure. Policies that may have a significant and lasting impact should be determined by long term stakeholders, of which Aboriginal people are the majority.

Statehood is a fundamental issue. Congress’ view is that only continuing residents should vote in a future referendum on statehood. This could be on the basis of a qualifying period of time, say 10 years. The same rule should apply to the establishment of a Northern Territory constitution. A future electoral system should be a proportionate one, ensuring that transient Australian voters do not have the disproportionate influence they now enjoy.

Political exclusion

Despite their numbers and level of need, Aboriginal people are politically marginalized. Non-Aborigines dominate Territory politics. Of the six former Chief Ministers, just two still have a home in the NT. Of the eight former leaders of the opposition, only one of the six who are not still MLAs has a home in the NT. The Administrator of the Northern Territory has a role essentially the same as that of state governors. Of 21 Administrators since 1912, none has been Aboriginal – though the current Deputy Administrator is Aboriginal.

A remarkable feature of the current NT Legislative Assembly is that six of the twenty five members are Aboriginal, and two of these are ministers. Though this is a significant step forward, the Chief Minister controls her cabinet firmly. Significantly, she also holds on to the position of Minister for Indigenous Policy.

As with the fact that the non-Aboriginal population of the NT is highly mobile, members of the NT Parliament are also predominantly migratory. Of the current parliament, and other than the Aboriginal members, only two seem to have been born in the NT.

Aborigines are generally absent from the ranks of senior public servants, policy makers and the higher status professions. The only Aboriginal leaders who command regular public attention are officers of the few large Aboriginal organizations. Recent changes to the *Aboriginal Land Rights (NT) Act 1976*, supported by the Chief Minister, are designed to reduce the power of two of those bodies (the Central and Northern Land Councils).

In a two-level local government system, the NT has 63 recognised local councils. Only 6 of these are municipal. Of the rest, 56 are community councils incorporated under the *Local Government Act* (as Community Government Councils) or other legislation. Nearly all of these councils are Aboriginal. Largely for reasons beyond their control, most are barely functional – despite provision for close government oversight.³⁸

In the municipal councils there have been very few Aboriginal aldermen.³⁹ Since being established in 1971, ten Alice Springs Town Councils have been elected. Of the 94 places filled, on only 3 occasions were they taken by Aboriginal aldermen. At present there are none, despite increasing responsibilities for the town camps.

The mass media mirrors political exclusion. For example, the *Northern Territory News* has a section called ‘Voice of the people’, published four days a week. It features the answers of people to questions about popular issues, the most common of which concern law and order, alcohol and the retail prices. Of two hundred respondents to 18 September 2006, only seven appeared to be Aboriginal. Similarly, of 29 finalists in the paper’s trumpeted ‘Unsung Heroes’ competition (with medals for ‘Bravery, Courage, Young Aussie, Community Spirit, Role Model, Mateship, Environment, Fair Go, Peace and True Blue’) none seemed to be Aboriginal.⁴⁰ These examples are consistent with a recent criticism by one of the paper’s own journalists that ‘the *NT News* doesn’t give a f – about Aboriginal people’.⁴¹

Political inclusion and Aboriginal health

An obvious question that emerges from looking at the political marginalization of Aboriginal people is how this problem can be addressed through governmental reform. If Aboriginal people were to gain a degree of political influence that matches their long-term stake in the NT, two types of benefit are possible.

The first benefit follows from the increased capacity of Aboriginal people to distribute public resources in directions that affect their health and well-being. This would be

through better health, education and welfare services, employment opportunities, and other measures directed at reducing institutional racism.

The second type of benefit, though obviously related, concerns social status. With a more inclusive political system, the social status of Aboriginal people is likely to increase – along with a sense of control over their individual and collective destinies. This also affects health and well-being. We now examine these pathways.

Political influence and redistribution

Claims about expenditures

Ninety per cent of Darwin's population is non-Indigenous.⁴² It is widely understood that Northern Territory governments stand or fall on voting over the eight seats in that city's north. Both major political parties direct inordinate expenditures to capture these seats. In the words of one commentator: 'You can't win government in the NT without winning the Northern Suburbs'.⁴³ Only one of these seats is Aboriginal held.

Under the Commonwealth fiscal equalization process, the NT receives proportionately much larger amounts of financial assistance than the states. This is to recognize the cost of providing average level public services to the Aboriginal population, dispersed as it is across vast regions. It is a common understanding that the NT government redirects such funds to attract the non-Aboriginal vote. This is partly through provision of public amenities such as recreational infrastructure, far beyond what a small city like Darwin could normally afford.⁴⁴ It is also partly through disproportionate expenditure on tourism and 'big build' projects such as the Alice Springs Darwin railway, and the new \$1.1 billion Darwin Waterfront and Convention Centre development and cruise ship terminal. The very public furore about NT energy subsidies to the McArthur River Mine is another current example.⁴⁵

Evidence about redirection of funds is extensive. The Commonwealth Grants Commission reports on the cost of providing average level services to state and territory populations. This is the basis on which the Commonwealth distributes revenue. The Grants Commission contrasts this with the Territory's actual expenditures. It reports that for Tourism in 2004-05, the NT government outlaid \$219 per capita, well above the Grants Commission's assessed Territory expense need for supporting tourism of \$59 per capita.⁴⁶

Similarly, Downie says that in 2005 the NT spent 12.3 million to subsidize domestic tourism, a per capita rate nine times that of the states. He argues that domestic tourism assistance constitutes poor use of public money and serves 'only to enhance the welfare of an industry that plays state against state in the fight for a share of the domestic tourism market'.⁴⁷

In contrast to support for tourism in the NT, the Commonwealth Grants Commission analysis of 'Services to Indigenous Communities'⁴⁸ shows the assessed expenses for 2004-05 as \$811 per capita, while the Territory's actual expenditure was just \$474 per capita.

The Commission also reports that for 'Homeless and general welfare' in 2004-05, the NT government outlaid \$6.27 per capita, as against assessed expenses of \$298 per capita.⁴⁹ Such discrepancies can, of course, arise from different accounting practices. However, they also reflect a lack of transparency and consistency in government financial reporting on both sides. Such confusion protects governments from accountability.

An analysis of government expenditure on the Thamarrurr region (population 3500), centred on Wadeye (formerly Port Keats) is more telling. Taylor and Stanley⁵⁰ reason that more than the NT average remedial expenditure might go to a population with poor health, poor education, poor housing, low income and high unemployment. Instead, they found that expenditure in trying to correct this situation was lower, while expenditure on criminal justice and supporting unemployment was higher. As an example of the disparities, Taylor and Stanley found that for every dollar spent on schooling in the wider Northern Territory, as little as 26 cents went to Thamarrurr school age children. For children who actually go to school at Wadeye, spending was still just 54 per cent of that for the Territory in general.

NT counter claims

Until recently, the Territory has simply denied charges that it misappropriates public funds. However, stung by a spate such accusations⁵¹ including from the federal Minister for Indigenous Affairs⁵² the NT government has now responded aggressively. It claims that NT expenditure levels actually favour Aboriginal people, and that government services are 'innovative and delivered with attitude'⁵³ – whatever that might mean. To correct the record, through its *Indigenous Expenditure Review* (2006) the Northern Territory Treasury contends that 'Indigenous-related' expenditure is 49.7 per cent, and revenue is 43.2 per cent of that for the whole NT, with expenditure exceeding revenue by 6.5 per cent (or \$175 million). The government claims that on a per capita basis 'Indigenous-related expenditure' is 2.44 times that for non-Indigenous people.⁵⁴

The NT Treasury's case is not credible. To begin with, it is unconcerned with the effectiveness or impact of services, only inputs. It also does not talk about expenditure **on or for** the benefit of Aboriginal people. It always uses the much more slippery term, 'Indigenous-related expenditure'.

Next, the Treasury's methodology avoids actual accounting. To prove Aboriginal advantage, the Treasury does not attempt to itemize outlays and then add them up. Instead, it relies on a series of creative assumptions and estimates. Broad government expenditure data are 'disaggregated to sub-output or program expenditure levels that reflect current agency structures'. Then the Treasury makes assumptions about proportions of particular operations attributable to Aboriginal people, directly and indirectly. These estimates about costs of services and levels of usage often rely on sources of guidance external to the NT, such as the Australian Institute of Criminology. They also rely on assurances from Territory agency managers, who may simply report what the Treasury wants to hear. The idea that public servants always provide 'frank and fearless' advice over politically sensitive issues is misleading.

Another questionable aspect of the Treasury methodology is that it ‘studies down’. That is, it concentrates on how the government serves poorer people. How well government looks after people at higher points on the social spectrum is discounted. Consistent with this, the Treasury selects program areas that spend more on Aboriginal people (eg local level policing), and uses these to estimate expenditures by the wider government.

It seems clear that neither the NT or Commonwealth governments have an accounting or reporting system capable of revealing the truth. In its recent report, the NT Treasury relies on assumptions and estimates which are far too speculative.

Inadequate finance anyway

Despite all this, there is a noteworthy frankness in the Treasury’s report. The Treasury concludes that

Current funding mechanisms are insufficient to overcome the level of disadvantage faced by Indigenous Territorians, equalize outcomes and address well-documented backlogs of infrastructure such as essential services and housing, as well as provision of the range of social services available to most Australians. ... Put simply, provision of average services will not reduce levels of disadvantage experienced by Indigenous Territorians.⁵⁵

Obviously enough, this point is framed to pass responsibility back to the Commonwealth, from which the NT wants ‘additional funding streams’.⁵⁶

There is no doubt that much more Commonwealth assistance is required. However, a Territory government less interested in attracting the electoral support of a relatively footloose (transient) non-Aboriginal population would be able to better use public funds for reducing Aboriginal disadvantage. This would be more likely if the NT’s special demographic profile was reflected in the structure of government, an issue that will be taken up later in this submission.

Congress’ view is that overlapping territory or state and federal responsibilities conveniently lend themselves to buck-passing. This is currently very much on display – over law and order and housing. Statehood itself would do absolutely nothing to remedy this serious problem. If there must be two levels of government responsible for Aboriginal health and well-being, and Congress is unconvinced about this, the issues of definite responsibility and accountability must be addressed. Now is the time to do so.

Both levels of government should have an accurate, transparent and integrated accounting system – which shows all relevant financial inputs, just what they buy and who benefits.

To help counter buck-passing, the Territory needs a permanent and genuinely independent commission which monitors and reports on all policy, current and proposed, for its impact on Aboriginal health and well-being. Such a commission would include in its scope both the Territory and Commonwealth governments – as well as their contractors.

Political inclusion and social status: The social determinants of health

We come now to the issue of how a more inclusive political system might influence the social status of Aboriginal people. Our interest here is in the social determinants of health.

Policy makers in Australia prefer to ignore the extensive international research and literature demonstrating the impact of inequality. There is now a large amount of evidence connecting disparities in income, education, opportunity, social exclusion and discrimination, status and influence with health.⁵⁷ In highly unequal societies such as Australia, poor people are far more likely to suffer ill health and lower life expectancies than those at higher points on the socio-economic scale.

One of the most prominent contributors to the understanding of the social determinants of health is Professor Richard Wilkinson. The following extract from a review of his (2005) book *The Impact of Inequality* makes its point nicely.

The people of Harlem (New York) live shorter lives than the people of Bangladesh. When you take out the violence and drugs, two-thirds of the reason is heart disease. Is that bad diet? No, says Wilkinson, it is mainly stress, the stress of living at the bottom of the pecking order, on the lowest rung, the stress of disrespect and lack of esteem. ...

Social status and respect matter beyond anything, and the psychological damage done by being at the bottom is crippling. ...

Low status and lack of control over one's life is a destroyer of human health and happiness.⁵⁸

Wilkinson's emphasis is on the psychosocial risk factors likely to be the most important sources or symptoms of chronic stress in western societies. These determinants include 'depression, anxiety, helplessness, hostility, isolation, insecurity, and lack of a sense of control'.⁵⁹ According to Wilkinson, poverty itself is not the main issue; it is inequality that gives rise to such factors. Factors such as low social status, and the lack of a sense of control that goes with it, link relative poverty on one hand and health and life expectancies on the other.

Within societies, health is graded by social status. Whether we look at life expectancy or at the frequency of most causes of death and disability, health

standards are highest among those nearest the top of the social ladder – whether measured by income, education, or occupation.⁶⁰

Another prominent medical doctor and epidemiologist with the view that social status is the critical underlying determinant of health and well-being is Professor Sir Michael Marmot. In his book *Status Syndrome*,⁶¹ Marmot argues that social standing directly affects health and life expectancy. Extreme status disparities and social exclusion within societies damage health. On the other hand relative equality, associated with social cohesion and strong public education systems, promotes collective well-being. Lack of agency or control generates dangerous levels of stress, giving rise to health risk behaviours: smoking, excessive eating and drinking, and other self destructive or violent activity.

Lessons from New Zealand?

Ross and Taylor provide a useful connection between inequality, social status and government for Indigenous people. They open their comparison of life expectancy and health status by noting that the ‘Indigenous populations of both Australia and New Zealand continue to experience much poorer health than the non-Indigenous populations of these countries.’ But, though ‘the health of Maori has improved rapidly in the last 60 years or so ... there has been no corresponding improvement in the health of Indigenous Australians’.⁶²

Ross and Taylor report Maori men as having a life expectancy 8 years less than non-Maori men. For women the gap is 9 years. In sharp contrast, the Australian gaps are 21.5 years for males and 20 for females. The authors set out to explain this, saying that no single factor is responsible. There is a mix of conditions for good health, including environmental circumstances, ‘access to health services, and socio-economic status’. Ross and Taylor are interested in the social determinants of health, particularly the ‘biological pathways between psychosocial stress and ill-health’, as a framework for explaining ‘the seeming intractability of the Indigenous health “problem” in Australia’. Ross and Taylor argue that ‘continuing low levels of indigenous life expectancy’ are ‘a product of the continuing position of Indigenous Australians at the bottom of the socio-economic and “class” hierarchies’.⁶³

Under the heading of psychosocial factors, Ross and Taylor⁶⁴ discuss the possible influence of differences in governmental structures – through their capacity to increase or decrease Indigenous peoples’ sense of ability to affect their destiny. Political arrangements affect factors such as esteem, as well as influence over the allocation of resources. They also speculate about whether even the mere awareness of the Treaty of Waitangi, with its associated rights and obligations, may have a beneficial effect on Maori health by bolstering social standing. This is aside from the Treaty providing Maori with a bargaining tool to complement the electoral leverage they gain through being 15 per cent of the NZ population.⁶⁵

In this context, Ross and Taylor might also have noted that NZ currently reserves seven of 120 parliamentary seats for Maori,⁶⁶ aside from those Maori who win places in open electoral contest. This brings us to the question of the options for restructured governmental arrangements.

Congress wants to see new governmental arrangements directed at ensuring the inclusion of Aboriginal people in the Northern Territory. A new constitution should guarantee equitable services and enshrine the rights and responsibilities of all citizens to fully participate in the social, political and economic life of the country. The constitution should target the elimination of status differences along racial lines.

Public agencies should be required to exercise all possible measures, including appropriately enforced laws, to reduce inequalities between Aboriginal and non-Aboriginal people.

How could government be reshaped?

If there is to be genuine consideration of alternative governmental arrangements which reflect the unique circumstances of the Northern Territory, options need to be identified, laid out and debated. The *Kalkaringi Statement* and the *Indigenous Constitutional Strategy*⁶⁷ have contributed to this process, though their ideas have not been pursued by the Statehood Steering Committee.

The Steering Committee received a presentation on statehood from the Central Land Council on 19 June 2006, but it has not made this public. Some alternative governmental arrangements are already in the public domain, though still ignored by government. One example, again from the CLC, is in a (2004) submission to the Senate Select Committee on the Administration of Indigenous Affairs.⁶⁸

The Land Council proposed a new governmental body for Aboriginal people in central Australia. This would be incorporated within Commonwealth legislation, with a high degree of autonomy. It would negotiate on at least equal terms with both federal and Territory governments and have responsibility for the local delivery of public services: directly, through community councils, or by contracting out. Of course, not all Aboriginal interests or viewpoints are reflected in the CLC model for government. However, despite its relevance to the Senate inquiry, the submission was ignored in the Committee's report, *After ATSIC – Life in the mainstream?*⁶⁹

Without endorsing them all, some options that could help ensure political inclusion of Aboriginal people are as follows:

- The referendum required before statehood could have an eligibility threshold, whereby only residents of more than, say, ten years standing would vote. A similar rule could apply to voting on a constitution for the Northern Territory.
- This principle could be carried into the future voting system. Alternatively, votes could be weighted according to period of residence in the Northern

Territory. Restricted eligibility and weighted (or cumulative) voting are not new in Australian government.

- There may be more appropriate voting systems for electorates with multiple and distinct interests. Multi member electorates, allowing various interests to be represented, may be preferable. These also are not new. The Hare-Clark proportional representation system used in Tasmania and the ACT is a prime example.⁷⁰
- The Constitution for a future state could guarantee various rights for Aboriginal people, some around health and the principle of self-determination. Of course, these would need to be enforced.
- A future Legislative assembly could have reserved Aboriginal seats, as for Maori in New Zealand, but proportionate to the population or long term residence.
- Alternatively, there could be an Aboriginal chamber in the parliament (as contemplated in Canada and taken up in the CLC submission on statehood). Such a chamber could legislate for Aboriginal people, or (like the Senate) have a right of veto over bills from the other chamber.
- As a variation on this, Aboriginal members of parliament could have a right of veto over legislation contrary to Aboriginal interests.
- An alternative to the Westminster style of government might be preferable. Having a parliament with 25 seats for around 110,000 voters is possibly excessive. Some kind of elected executive might be preferable. It is not necessary to maintain a complete suite of laws for a small population. Many laws, such as those for education, roads and commerce, could be applied from an existing state. This is the practice for Australia's Indian Ocean Territories⁷¹ – which happen to be part of the NT federal electorate of Lingiari.
- A new system of government could have a permanent and truly independent commission which monitors and reports on all policy, current and proposed, for its impact on Aboriginal health and well-being. Such a commission would include in its scope both the Territory and Commonwealth governments.
- Such a commission would also be charged with ensuring that public agencies take all possible steps to reduce inequalities between Aboriginal and non-Aboriginal people. It would ensure that adequate data is collected and made publicly available in a readily understood and useable form. It would also ensure that government agencies carry out all their duties, including enforcement of laws and implementation of internationally recognized human rights protocols.

There are many more options that should be identified by way of a thoroughgoing consultative process.

Congress urges that the present statehood consultative process be substantially broadened to identify and fully consider more fitting future governmental arrangements.

Alternatives to statehood should be actively explored and discussed along with the case for statehood. Only with this can there be fully informed consent through a referendum.

Alternatives to statehood

Though the Steering Committee makes various assertions to the effect that people need to make up their own mind, it offers no alternatives to statehood. It ignores the long history of proposed alternatives to states. This is also despite the currency of the idea that states are unnecessary, wasteful and obstructive.

According to the Australian Treasurer; 'Federalism has to be completely recast'.⁷² Over recent years, the federal government has been steadily centralizing power, aided by High Court decisions.⁷³ Taxation and industrial relations are key examples. Water management and control of education curricula are emerging as others.⁷⁴ In any case, many see centralization as a continuing trend in Australian government since Federation.⁷⁵

The best option for everyone might be a regional system of government without any states. Regions in a Commonwealth could also eliminate the endless, confusing, but often convenient device of buck-passing responsibility for Aboriginal well being between the Australian and NT governments.

Hudson and Brown's book, *Restructuring Australia*⁷⁶, features a series of chapters challenging existing governmental arrangements. The collection is pitched at extending debates about the adequacy of present public institutions for meeting social and economic aspirations.

In one of the chapters, Chris Hurford⁷⁷ advances a federal structure comprising no states, and 51 regions instead. His designated regions include: 'Top end', 'Kimberley-Pilbara', 'Watjarri' (Gascoyne / Mid West), 'Gulf-Diamantina' and 'Outback'. The latter is central Australia and northern South Australia.

On this theme, it is relevant to note that between 1927 and 1931 Central Australia and North Australia were separately administered regions of the Commonwealth. Also related is some evidence that both Aboriginal and non-Aboriginal people living in Alice Springs connect geographically more with Adelaide / South Australia than with Darwin and the Top End.⁷⁸ Short of moving beyond states, there is no necessary reason why Central Australia could not become a territory of the Commonwealth.

Conclusion

Statehood is a political agenda item on the backburner. An educative process continues while the government watches the electoral mood. Its options are open. Should it consider the time politically advantageous, the government could act on statehood even as early as 2008. Though a constitution would need to be drafted, on present indications this will be minimalist and conservative. Unfortunately, there are no signs that government is prepared to consider a new political structure – one matching the special circumstances of the Northern Territory. On the present path, we can expect limited debate and limited choices.

Nevertheless, the Statehood Steering Committee tells us that ‘Statehood is a rare opportunity for us all to have a say in how we are governed into the future’ (*Fact Sheet 20*). The government should honour this declaration in a serious and wholehearted way. This means that long-term residents of the NT should, on an informed basis, examine and choose from a range of options. These alternatives need to go beyond imitating the existing states, which are so dissimilar to the NT, in terms of both demography and challenges faced. Options that reflect the distinctive population structure and interests of central and north Australia must be put on the table. Demonstrably, we need a more inclusive and fairer system of governance.

The Commonwealth government would have to agree on statehood for the Northern Territory. It would also set terms and conditions for the grant of statehood. Such terms and conditions should require that a new constitution and governmental arrangements fully reflect the unique circumstances and makeup of the Northern Territory.

Notes and references

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- ² Northern Territory Legislative Assembly, Standing Committee on Legal and Constitutional Affairs, Northern Territory Statehood Steering Committee Terms of Reference, adopted 17 August 2004 and amended March 2005, Preamble, ii
- ³ Northern Territory Legislative Assembly, 2004, i.
- ⁴ Three of the six member committee are government MLAs, two are members of the CLP, and one is Independent.
- ⁵ Statehood Steering Committee website, 20 November 2006.
- ⁶ The Chair of the Statehood Steering Committee is Aboriginal. Currently the non-Aboriginal ‘Co-Chair’ plays a more active and up-front role.
- ⁷ <http://www.statehood.nt.gov.au/>
- ⁸ See Melik Özden, *The right to health*, Part of a series of the Human Rights Program of the Europe-Third World Centre (CETIM), 2006. ISBN 2-88053-048-2. http://www.cetim.ch/en/publications_sante-bro4.php
- ⁹ ABC TV *Stateline*, 27 October 2006.
- ¹⁰ As an example, on the ABC TV 7.30 Report (2 November 2006) NT Senator Nigel Scullion fumed that the move to cap the Territory road speed at 130 km/h reflects ‘southern-centric policy and the southern-centric mentality’, and is against the interests of ‘Territorians across the board’ ... and it’s going to take forever to get to places’.
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- ¹⁶ NT Treasury, 2006, 18.
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- ²⁹ Wilson and Barnes, 2006, 9.
- ³⁰ ABS, *Demography Australia*, Cat. No. 3311.0.55.001; ABS, *Population Characteristics, Aboriginal and Torres Strait Islander Australians*, Cat. No. 4713.0.
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