

## Centre for Aboriginal Studies – Curtin University

### General attitude towards the issue under inquiry:

In general terms, the executive committee of staff at the Centre for Aboriginal Studies made up of Aboriginal and non-Aboriginal people support the inclusion of a symbolic acknowledgement of first nation peoples in the Western Australian Constitution. The wording of such an inclusion should state the following:

Recognition of Aboriginal people;

- 1) The People and Parliament of Western Australia acknowledge and honour the Aboriginal people as the first people and self-determined nations of the State, and;
- 2) The People and Parliament of Western Australia recognise that Aboriginal people have a spiritual, social, cultural and economic relationship with their traditional lands and waters within Western Australia;
- 3) It is accepted that as a result of past Government decisions the amount of land set aside for Aboriginal people has been progressively reduced without compensation;
- 4) Have made a unique and irreplaceable contribution to the identity and well-being of Western Australia

### *Our Perspective on this issue:*

The original inhabitants of Western Australia known as Aboriginal people are made up of sovereign first nations. As the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Gooda stated in his recent report *“the existence of nations in Australia is undisputed. There have been various names given to these collectives over time: peoples, tribes, clans, language groups, nations or mobs”*<sup>1</sup> Acknowledgement of there being Aboriginal Nations within Western Australia is vital to our sense of identity, our survival and more importantly, our self-determination. It is with this understanding, academic staff at the Centre, teach indigenous and non-indigenous students to build the capacity for first nations communities to be self-determined in economic development as a fundamental necessity. Therefore, we assert that Aboriginal self-determination should be a constitutional right. Its insertion in the WA constitution provides a standard against which government policy can be considered and thus allows first nations in Western Australia to hold the government accountable if it is breached.

We assert that there will be little benefit to first nations Western Australians flowing from merely acknowledging in the WA constitution that the land was once owned by us, was occupied by us but this land was stolen from us without compensation. Every existing constitutional legislation in other Australian states have already created exclusionary provisions within their constitutions preventing Aboriginal peoples from holding any legal right or civil cause of action for compensation or justice for this original theft. For a stronger and deeper relationship between the broader Western Australian population and first nation people in Western Australia, such provisions should be omitted.

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<sup>1</sup> Gooda, M (2014) Social Justice and Native Title Report 2014, Australian Human Rights Commission, Sydney

### *The Reality for First Nations peoples in Western Australia*

There are many well documented inequalities experienced by first nation peoples in Western Australia. Despite successive state government attempts to engineer their social, cultural and economic lives for generations, Aboriginal people in WA are resilient. This resilience does not detract from the reality of trans-generational trauma inflicted by forced child removal, frontier violence, dispossession and persistent colonisation.

First nation peoples in Western Australia comprise only 3.1 per cent of the overall population in this state. Yet, first nation peoples are over represented in statistical data that demonstrate vast inequalities and injustice. Some of the particularly damning figures are explained below to highlight exactly the social and historical context such a symbolic gesture in the WA constitution will mean.

#### **Highest Incarceration Rates Nationally**

Aboriginal people in WA comprise the highest rate of incarcerated citizens compared to the rest of Australia and indeed, the world. These rates have nearly doubled between 1990 and 2010<sup>2</sup>. A parliamentary report in 2010 reported that Aboriginal people in Western Australia were jailed per 100,000 was 2,483, while the figure for African Americans in the United States is 2,290<sup>3</sup>. As of March 2009, this state's rate was recorded at 3,741.<sup>4</sup> Some commentators have claimed that this rate is nine times that of the rate of incarceration experienced during the height of the Apartheid regime in South Africa. What is even more damning is that of the juvenile justice system in Western Australia. Aboriginal youth make up 77.2 per cent of all youth in custody last year.<sup>5</sup> This means that our future generation of leaders and adults will have spent their formative years within corrective institutions. Aboriginal women in Western Australia represent the highest incarceration rate in the world for indigenous women. This is a status that all Western Australians should be ashamed of. One of our own academics is a prison reform advocate and restorative justice specialist. Dr Brian Steels surmises that Western Australia's high prison rates could be related to the "frontier mentality" of police and general racism in the non-Aboriginal population.<sup>6</sup>

#### **Highest ratio of Aboriginal children in Out-of-Home Care**

Western Australia has the highest rate ratio of Aboriginal and Torres Strait Islander children in out-of-home or Foster care in Australia. Aboriginal children are 16 times more likely than non-Aboriginal children to be in out-of-home care in this part of Australia. While they comprise just 5 per cent of the child population (aged 0-17 years), our children make up 50.5 per cent of all children in out-of-home care. This is the second highest proportional rate in Australia after the Northern Territory and higher than the national average. In Western Australia, Aboriginal child removal has more than tripled in the past 10 years from 587 children in 2003 to 1,800 in 2013.<sup>7</sup> This rate is five times higher than that which was experienced during the entire stolen generation's eras on the last century. A national award<sup>8</sup> winning radio documentary produced and presented by one of the centre's talented Aboriginal academic staff, Carol Dowling, highlighted this issue declaring that we are witnessing another stolen generation and experiencing cultural genocide on a wide scale.

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<sup>2</sup> 'WA's high jail rate in spotlight', Koori Mail 490 p.16

<sup>3</sup> 'WA 'high achiever' - for locking up people', Koori Mail 455 p.10

<sup>4</sup> 'WA 'high achiever' - for locking up people', Koori Mail 455 p.10

<sup>5</sup> Strategic Services Directorate, Performance & Statistics, Department of Corrective Services, (26 June 2014) [Weekly Offender Statistics \(WOS\)](#), Perth

<sup>6</sup> 'Australian Bureau of Statistics on prison rates', The Stringer 12/4/2013

<sup>7</sup> <http://www.snaicc.org.au/news-events/dsp-default.cfm?loadref=255>

<sup>8</sup> <http://www.humanrights.gov.au/news/stories/human-rights-awards-honour-quiet-australian-heroes>

### Chronic Mental Health Issues

First nation peoples in this state have a distinct culture with a rich and powerful history. The shock of colonisation, discriminatory state policies and the trauma of stolen generations spawned profound hardships for us as human beings. These difficulties persist today and burden our people's mental health. Many of these issues include continued grief and loss, living in continual poverty, loss of identity and culture, chronic disease, low self-esteem/self-worth, incarceration, premature death, overcrowding in family homes, substance use problems and poor educational outcomes. Mental health issues manifest into anxiety, post-traumatic stress disorder and depression becoming common place in communities across Western Australia. What is missed is that the wellbeing of a first nation's individual is intrinsically linked to that of all significant others within their family and strengthens them in times of adversity especially with strong kinship systems and their acceptance of diversity. Overarching this is the importance of connection to ancestral lands that ensures social and emotional wellbeing.

Alarming in recent decades a devastating trend has emerged within Western Australia first nation communities. Aboriginal children taking their own lives have reached such high numbers that community leaders speak of a 'normalisation' of suicide. Tragically, more and more children, who are younger and younger, commit suicide in this state. Between 2007 and 2011, the percentage of Aboriginal child suicide was 75 per cent.<sup>9</sup> In the Kimberley last year, the ratio for 100,000 suicides was 70 compared to a national rate of 11. This has far outstripped the world's highest overall national rate found in Guyana, South America which stands at 44 suicides per 100,000.<sup>10</sup> In this region, suicides reached 182 times the rate of the general population.<sup>11</sup>

In November last year, when a young Aboriginal boy of 11 tragically took his own life in Geraldton, the town Mayor stated "There is a fundamental failure at a community level where kids feels as if the only coping mechanism they have is to end their life."<sup>12</sup> However, it is more than the failure of a community. Many Aboriginal people have been traumatised when they were abused in missions, when their children were stolen or when they lose their homelands. This pain haunts them through their adult lives and when help does not arrive some just cannot cope. Instead of community gatherings to celebrate culture and family life, many children experience the reality of funerals of family taken to soon including other children their own age due to suicide. Grief and trauma can only be addressed by specialist Aboriginal counsellors equipped with cultural awareness and understanding.<sup>13</sup>

The Aboriginal Community Controlled Organisations Alliance of Perth identified within its members, comprising of Chairpersons and executive officers, that one of the overarching demand by clients and community were the dire need for more mental health facilities and services.<sup>14</sup> Aboriginal people are crying out for help but are often met with "chronic official indifference" to their difficulties. Despite so many deaths in Western Australia, there is still no effective state suicide prevention strategy put in place.<sup>15</sup> Findings into two coronial inquiries into suicide have been ignored in Western Australia. In March 2013, the WA Premier admitted that alleged billions of dollars spent on Aboriginal services and communities were not reaching those who needed it.<sup>16</sup> Work overseas in Canada show a direct correlation between decreases in suicide and increases in resources allocated

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<sup>9</sup> 'NT suicide report findings backed', Koori Mail 523 p.8

<sup>10</sup> 'The smaller a community, the less likely suicide', The Stringer 25/11/2014

<sup>11</sup> 'Suicide trends in WA - an urgent call to action', Medicus, September 2014, p.30

<sup>12</sup> 'Geraldton community grieves as Aboriginal boy's suicide highlights prevention failures', The Australian 7/11/2014

<sup>13</sup> 'Barriers for kids detailed', Koori Mail 507 p.31

<sup>14</sup> ACCOA (2013) ACCOA survey of service priorities, Perth

<sup>15</sup> 'The silent tragedy of profound loss', SMH 19/4/2012

<sup>16</sup> 'Dumbartung convenes Suicide Crisis Summit', The Stringer, 26/4/2013, thestringer.com.au/dumbartung-convenes-suicide-crisis-summit/, retrieved 29/4/2013

to allow for first nation self-government and community based services. This was shown last November in WA, when a network of psychiatrists, nurses and mental health workers (many of them Aboriginal) took it upon themselves to lead a 120 per cent increase in Aboriginal people accessing mental health services, a 144 per cent increase in face-to-face clinical consultations and a 44 per cent increase in those accessing community health services.<sup>17</sup> The Centre for Aboriginal Studies at Curtin University are currently developing a Bachelor of Applied Science degree course specifically designed for Aboriginal people to become Mental Health Practitioners. The course will begin in 2016 and will provide its graduates with the ability to provide substantial clinical roles in the healing of first nation peoples in Western Australia and nationally.

### **Chronic health issues**

Most Western Australians enjoy one of the highest life expectancies of any country in the world. This is not true for first nation people in this state. In 2005, the Australian Human Rights Commission reported the vast gap between the health of first nation Australians and other Australians. The Commission called upon governments to take action to increase the life expectancy of our people. The Close the Gap Coalition made up of 40 Aboriginal and non-Aboriginal health and community organisations along with nearly 200,000 Australians called upon all governments to take real and measurable action to achieve Indigenous health equality by 2030. Within the next fifteen years, the Western Australian government must increase the life expectancy of first nation people by 10-17 years. The mortality rates within many communities in Western Australia are on par with some of the world's most impoverished nations. The United Nations Report, *the State of the World's Indigenous peoples*<sup>18</sup> stated that Australia and Nepal have the world's worst life expectancy gaps between Indigenous and non-Indigenous people. This is not just about the lives of adults but also about the WA government ensuring that targets are reached so that babies born to Aboriginal mothers in this state do not die twice the rate of all other Australian babies.

Working in consultation with Aboriginal peoples should also ensure that we do not continue to experience higher rates of preventable diseases such as heart disease, kidney disease, diabetes and otitis media (middle ear infections). Our communities need to be consulted, empowered, resourced and supported to address the health issues facing us. Positive change has happened and there are a few success stories only because Aboriginal controlled services were properly resourced and in the control of the community. However, the security of these resources is not long-term. Primary health care, health education, improved nutrition, maternal and child health and the prevention and management of disease all must be resourced by the state at an adequate level.

There are many fundamental necessities not being ensured to our communities. A prime example is food security for Aboriginal communities. Many Aboriginal meals are unhealthy in our households because poverty and lack of access to affordable food is a major concern. In remote WA communities, a large majority of stores charge up to 3 times the price of food in the Perth. Our households buy cheap (unhealthy) food or run out of food before the next pay day. In the larger centres, many find it easier to give our children fast foods because they are cheap and accessible instead of cooking meals at home. This is even more difficult for families who are living in overcrowded dwellings or are homeless. This leads to unhealthy choices in diet which has long lasting effects including obesity, heart disease and diabetes.<sup>19</sup>

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<sup>17</sup> 'Geraldton community grieves as Aboriginal boy's suicide highlights prevention failures', The Australian 7/11/2014

<sup>18</sup> Department of Economic and Social Affairs, Division of Social Policy and Development, Secretariat of the Permanent Forum on Indigenous Issues (2009) *The State of the World's Indigenous Peoples*, United Nations, New York.

<sup>19</sup> 'Bush tucker back on Aboriginal menu', The Australian 18/8/1994

Chronic preventable infectious diseases such as otitis media (middle ear disease) are ravaging our communities. Aboriginal people are 10 times more likely to suffer from ear diseases and hearing loss. Aboriginal ear and hearing health is in crisis in Western Australia.<sup>20</sup> The World Health Organisation has declared that incidents of ear disease in communities in Western Australia and the Northern Territory to be a “massive health problem” with the number of Aboriginal children in remote community suffering with middle ear infections to be as high as 93 per cent. Untreated many children grow to do poorly at school, become frustrated due to hearing loss and drop out. Most find themselves in the juvenile ‘injustice’ system labelled as problem children simply because they cannot hear the world around them. Some prisons in the Kimberley have 80-90 percent of their adult inmates with permanent hearing loss due to untreated childhood ear disease. Their guards now carry audio enhancing equipment for their orders to be heard by inmates. The ability for our children to do well at school is blocked by the infection in their ears leading to permanent hearing loss. Otitis media is caused by poverty and in turn, causes the poverty in our communities.

### **Low socio-economic status**

Extreme poverty is the everyday reality of first nation peoples in Western Australia. Research has shown it to be the primary reason for the many spates of suicide and self-harm incidents in the Kimberley.<sup>21</sup> Poor and appalling living conditions all play their part in ill health and the foundation for social dysfunction. Successive governments in WA have never adequately addressed Foetal alcohol syndrome, extreme unemployment, ‘disgraceful’ public housing, overcrowded homes and poor levels of education for our people. Increasing government spending in trying to improve community life in an attempt to avoid suicides is seriously flawed and continues to only touch the surface rather than using effective working solutions created by communities themselves. Many community members believe that they are merely a part of an industry to keep their people impoverished and oppressed. The question here is why there has never been an independent entity or individual monitoring the performance of government agencies making them held responsible for achieving improved outcomes for first nation peoples in WA.

Amnesty International has said the current WA government are being hypocritical in their treatment of first nation’s peoples in this state and to drop plans to forcibly evict first nation peoples of this state from up to 150 homeland communities. These plans include the demolition of homes and preventing people from their right to practice culture. Amnesty International have asserted this as a breach of international law and in their 2011 Homelands Report<sup>22</sup>, showed how living on ancestral country extended life expectancy, improved health outcomes, reduced rates of domestic and other violence, gave our people agency and decision-making, provided our people connection to their land and culture and most of all, reduced their exposure to the damaging influences of non-Aboriginal society found in larger towns and cities.

Yet this current WA government has already forced the first nation residents of the remote community of Oombulgurri from their ancestral lands and demolished their homes without consultation. The trauma experienced by those forcibly removed include being made homeless for a long period and left devastated by having their connection to their land and culture severed forever. The logic behind such official action is purely fiscal grounded in the funding for municipal and essential services due to cease in June of this year. These services have been the responsible for the Commonwealth for more than 50 years, but as soon as such a commitment is passed to the WA government, Aboriginal people’s wellbeing and their important part in Australia’s society and psyche mean nothing. In partnership with Aboriginal residents, Oombulgurri could have continued to exist

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<sup>20</sup> 'Injustices linked to poor hearing', Koori Mail 476 p.9

<sup>21</sup> 'Suicide trends in WA - an urgent call to action', Medicus, September 2014, p.30

<sup>22</sup> Amnesty International Australia (August 2011) The Land Holds Us: Aboriginal Peoples' Right to Traditional Homelands in the Northern Territory, Amnesty International Australia, Broadway.

with the support of a collaborative partnership between Federal, State and local governments. There were not attempts to help this community become economically sustainable through either business creation, community or enterprise development. The mania created through the global financial crisis has a far reach and though economics are an important consideration, keeping our people on country will ease many financial burdens. When you support our people in these communities, they are healthier, less likely to engage with the criminal justice system or to be incarcerated and with support, employment opportunities such as cultural tourism could see Western Australia become a prime cultural tourist location.

First nation peoples in Western Australia are not liabilities or extravagant entities. All communities are the responsibility of the state in both urban and rural locations. This means providing essential services equally to all citizens including that of adequate health, education and law and order. By forcibly removing first nation people from their homes and country, this state government is directly preventing us from practicing culture. This connection is very necessary to assert our rights within the National Native Title process. It is a breach of the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Rights of Indigenous Peoples, both of which Australia is a signatory. These very principles of human rights, community development and management are taught to the many indigenous students who study within our centre. They come from many communities from all over Australia including those in remote areas. Oombulgurri will now only live on in the lectures as an example of how arbitrary the WA government still behaves towards our people in contemporary Australia.

### **Summarise the broad thrust or reasoning behind your comments:**

The broad thrust of our stance as the staff of the Centre for Aboriginal Studies is about the power of education. Education is about understanding our place in Australian society today and how to bring about positive change for our communities from abject poverty and despair. Education of our people provides an economic pathway leading to jobs and being able to participate in business and commerce. This also is about providing knowledge to our people about the potential of a real future for first nation peoples in Western Australia and Australia. Our graduates should and have become decision makers and leaders in the mainstream economy with substantive self-determination as sovereign peoples.

We believe that any inclusion in the WA constitution should provide the substantive transfer of decision-making power from government to Indigenous peoples. This requires programs and resources that assist us in rebuilding our own decision-making capabilities. We believe that self-determination and self-government alongside the settler society are essential foundations for making sustainable improvement in the social and economic conditions of first nation people in Western Australia. If our governance is executed in the right way, in a culturally responsive way, our people have proven many times that we are already the only ones who can make sustainable development happen. The WA constitution is a legal document that can do more than provide symbolic leadership in the moral and ethical behaviour of non-Aboriginal citizens. It must also encompass the economic (and in many ways spiritual) basis for first nation communities in Western Australia to be self-governing and to have hope.

**Make any recommendation(s) or comment(s) on the specific terms of reference:**

- We recommend that the term “self-determination” be used precisely in the WA constitution and that this inherent right for first nation peoples be supported in principle and in action.
- We recommend that the WA government use the WA constitution inclusion of first nation peoples to create a more stable policy environment that encourages and supports Aboriginal community based solutions.
- We recommend that the WA government use the WA constitution inclusion to bestow authentic autonomy to first nations communities as sovereign peoples and that this independence not be influenced or withdrawn by the WA government at any time in the future.
- We recommend that the inclusion of first nation peoples into the WA constitution be the foundation for effective service delivery within the context of Aboriginal families as the foundation of Aboriginal community and identity encompassing community partnerships as the most effective way of providing services to identified needs.
- We recommend that such an acknowledgement within the WA constitution should initiate widespread critical investment into first nation people who under 30 years of age who make up half of our population and for their voices to be heard to have the same access to healthcare, education and life opportunities as all young people in Australia.
- We recommend that such an inclusion in the WA constitution enshrines the indisputable right to practice and preserve first nation language and culture unique to Western Australia without interference or threat.

**Indicate why you are for or against the main thrust of the Bill**

The Centre for Aboriginal Studies executive are in support of the inclusion of acknowledgement first nation people in the WA constitution as it represents the first real contemporary gesture of symbolic restitution without taking legal action to do so. However, the wording and implications of the inclusion is a different matter as it should provide substantial change to the current position of first nation peoples in this state. In particular, this inclusion must honour and respect that first nation peoples living within Western Australia are sovereign peoples with their own self-determination which must be the prime point of engagement championed within this insertion.

**Indicate whether you are for or against specific measures in the Bill**

The Centre for Aboriginal Studies executive are in support of the specific measure of this new inclusion into the WA Constitution but wish to insist upon any exclusionary clauses be omitted. Such provisions prevent first nation peoples from holding the state accountable for its conduct. We challenge the state to meet us as sovereign peoples who have never ceded their sovereignty by law or treaty.

### **Summarise changes you want and indicate why**

We, as executive staff from the Centre for Aboriginal Studies at Curtin University, support the inclusion of substantive acknowledgment of first nation peoples in the WA Constitution. We are proud sovereign peoples with our own self-determination which is our inherent human right. This right must be acknowledged and substantially resourced by the state of Western Australia who have vastly benefited from our generosity and that of our honoured ancestors who paid with their lives and happiness.

Throughout this region of Australia, as first nations peoples, we continue to carry our own learning and cultural lifestyles with us. Our culture and languages have been threatened, truncated and dismissed for generations by the invading dominant culture. In summary, we call upon the WA government to finally support the concept of peace for our people. As Patrick Dodson, respected Yawuru elder and leader from Broome said when receiving the 2008 Sydney Peace prize, he described what peace meant to him and in a very poetic way, opened up about his reality.

*Peace from the drunks, the alcohol abuse, the violence, and the molestation that takes place... Peace from the harassment from police, peace from discrimination and racism, that people experience when they try to get a flat or a house or seek to get a job. Peace from the gazing eyes of the public as you enter a room because of the colour of your skin. Peace because of the unsettled nature of our relationship with this country, which was once ours and has since been taken over... And a peace that comes from knowing that you have to justify who you are every day of the week just because you are an Aboriginal person.*<sup>23</sup>

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<sup>23</sup> 'Inspiring peace', Koori Mail 427 p.11