



**Central Australian
Aboriginal Congress**
ABORIGINAL CORPORATION | ICN 7823

Submission to:

Modernisation of the *Anti-Discrimination Act*

NT Department of the Attorney-General and Justice

January 2018

1. Context for this submission

Central Australian Aboriginal Congress (Congress) is the largest Aboriginal community-controlled health service (ACCHS) in the Northern Territory, providing a comprehensive, holistic and culturally-appropriate primary health care service to more than 14 000 Aboriginal people living in and nearby Alice Springs each year, as well as the remote communities of Ltyentye Apurte (Santa Teresa), Ntaria (Hermannsburg) and Wallace Rockhole, Utju (Areyonga), Mutitjulu and Amoonguna.

As an ACCHS, Congress functions within the framework of a comprehensive primary health care (CPHC) model, which aims to address health inequities and close the health gap between Aboriginal and non-Aboriginal people by providing multidisciplinary clinical care as well as addressing the broader social determinants of health, including racism, homelessness and overcrowding, and poverty.

Aboriginal people are vulnerable to discrimination which entrenches disadvantage and has huge impacts on health and wellbeing. Measures to reduce discrimination and improve access to legal redress within the Northern Territory (NT) are welcome.

The following submission addresses the questions asked in the Modernisation of the *Anti-Discrimination Act* (the Act) discussion paper that are relevant to the social determinants of health and improving the health and wellbeing of Aboriginal people in the NT.

2. Q2 Should the attribute of "gender identity" be included in the Act?

Supported

Congress supports the amendment to the Act to include gender identity as a protected attribute rather than the existing attribute of 'sex.' Congress is a provider of health services including social and emotional wellbeing services to all Aboriginal people. Congress is therefore a strong advocate for the determinants of good mental health, as well as ensuring the most vulnerable have access to health services.

Modernisation of the Anti-Discrimination Act

Congress organised the first historic Aboriginal and Torres Strait Islander Indigenous Gay Men and Transgender Sexual Health Conference held in late 1994 on Arrernte country at Hamilton Downs, 75 kilometres north-west of Alice Springs. Several sister girls also attended this event. The Anwernekenhe conference, as it was known, led to the establishment of the Anwernekenhe network which advocates for the rights of Aboriginal and Torres Strait Islander LGBTI people. It is very important that Aboriginal community controlled health services are accessible for all these people who are part of the Aboriginal community as they are part of all communities throughout the world.

Discrimination based on gender identity can have far reaching consequences for physical and mental health including anxiety, depression and suicide, particularly for our young people. Additionally, everybody should be able to access services such as health and housing, without discrimination due to gender identity. This means supporting strong and clearer protections around gender identity within the NT, and antidiscrimination laws that are consistent with Commonwealth laws.

3. Q3 Should intersex status be included as an attribute under the Act?

Supported

For the reasons outlined above, intersex status should be an attribute under the Act.

Q4: Should vilification provisions be included in the Act?

Supported

The experience of racism is overwhelmingly common for Aboriginal people¹, and is an acknowledged determinant of poor health and wellbeing. Racism affects the physical, social and emotional wellbeing of Aboriginal people through the stress and other negative emotions it creates, or through the direct experience of racially-motivated violence, or through increased use of tobacco, alcohol and other drugs.²

While the *Race Discrimination Act 1975* (Cth) does offer protections, current mechanisms for redress are onerous and impractical for anyone living in Central Australia. Effective legislation administered in the NT will allow for timely and relatively easier access to redress. It also sends a strong signal that racial vilification is unacceptable in the NT.

4. Q 5: Should the Act create rights for people experiencing domestic violence in relation to public areas of life such as employment, education and accommodation?

Supported

Domestic violence is a major issue for Alice Springs.³ The rate at which Aboriginal females are recorded by police as victims of domestic violence-related assaults in Alice Springs is over 3 and a half times the rest of the NT.⁴ Additionally, the volume of domestic violence matters being dealt with by police and the courts is very high compared with the population of Alice Springs. Furthermore, there has been a steady rise in the volume of domestic violence matters handled by police and the courts in Alice Springs in a six-year period.⁵

Congress provides a number of services to support people experiencing family and domestic violence. We are therefore supportive of the inclusion of domestic violence as an attribute within the Act, and

Modernisation of the Anti-Discrimination Act

protections around employment, education and accommodation, so that people do not experience further disadvantage through discrimination.

5. Q 6: Should the Act protect people against discrimination on the basis of their accommodation status?

Supported

Aboriginal people are hugely over-represented amongst the homeless: in 2011, 1 in 20 Aboriginal Australians was homeless, 14 times the rate for non-Aboriginal Australians. About 4 in 10 Aboriginal homeless people were aged 18 or under.⁶ Cultural values mediate Aboriginal homelessness; those without a home are often taken in by kin, which while avoiding 'primary homelessness,' can lead to or exacerbate severe overcrowding.⁷

Homelessness and overcrowding are key determinants of health. As a comprehensive primary health service Congress provides services that are not directly related to health care e.g. transport, support for housing, accessing benefits and job training.⁸ Protecting people who are experiencing homelessness from discrimination will reduce barriers to services including education, employment services and related facilities.

6. Q 8: Should "socioeconomic status" be included as a protected attribute?

Supported

Not only do Aboriginal people suffer high levels of absolute poverty but they do so in a wealthy, highly developed country. More than 70 per cent of the Aboriginal population of the NT are in the lowest quintile for socio-economic status. Only 35 per cent of Aboriginal people living in remote areas of workforce age are employed.⁹ The failure to reach the COAG Closing the Gap targets including reading and writing; school attendance; early childhood learning; and health outcomes, means many Aboriginal people in remote areas are not workforce ready.

Aboriginal people's use of income support is therefore at disproportionately higher rates than non-Aboriginal people. Although only three per cent of the total population nationally, Aboriginal people represent 10 per cent of Newstart Allowance recipients and 19 per cent of those on Youth Allowance. Both allowances fall below the poverty line.¹⁰ This proportion will be much higher in the NT.

Socioeconomic status as a protected attribute should be included in the legislation, to protect many Aboriginal people from discrimination and to remove barriers to overcoming poverty.

7. Q 10: Should a representative complaint body be introduced into the ACT? Should there be any variations to the process of the complaint model as described above?

Supported

Making a complaint about discrimination at an individual level can be prohibitive, for the very reasons listed above: racism; homelessness; domestic violence; and socio-economic status. Capacity to make a complaint may come well after the protected attribute (e.g. homelessness; poverty) has been overcome.

Modernisation of the Anti-Discrimination Act

However for those whose experience of disadvantage is deeply ingrained and spread across generations, simply surviving from day to day is a priority, rather than seeking redress for discrimination. It is therefore appropriate that a representative complaint model is allowed for under the Act.

The organisation making the complaint on behalf of a group of people should be largely representative of and accountable to those people, e.g. an Aboriginal Community Controlled Service, with an elected Aboriginal board and Aboriginal membership. This provides a community mechanism for redress if there was a concern that an organisation was not properly representing the interest of its members which gives greater legitimacy to the ability of Aboriginal controlled organisations to make complaints on behalf of Aboriginal people.

8. Q 11 Should the requirement for clubs to hold a liquor licence be removed?

Supported with conditions

To make a complaint about a club under the Act, the club must fit the following criteria:

- The establishment for social, literary, cultural, political, sporting, athletic, recreation or community purposes;
- Has 30 members or more;
- Sells/supplies liquor for consumption on its premises.

This means that complaints of discrimination cannot be made under the Act if the club does not sell liquor. The criteria for a club under the Act to hold a liquor licence should be removed, so as to include clubs that do not hold liquor licences. This will widen the reach of the Act and reduce discrimination which may otherwise lawfully occur, for example, the exclusion of people in clubs due to certain attributes including race and gender.

There should be sufficient exemptions available for which a club can apply to, for instance, where it is specifically for the practice of Aboriginal cultural, which may also include being suited to one sex. Culture and spirituality are important factors in the health and wellbeing of Aboriginal people, supporting positive social and emotional well-being.¹¹

9. Q 12 Should the restriction of areas of activity on sexual harassment be removed?

Supported

Removing the restriction of activity on sexual harassment is supported so that there are fewer restrictions on sexual harassment claims.

¹ Ferdinand A, Paradies Y and M. Kelaher (2012). Mental Health Impacts of Racial Discrimination in Victorian Aboriginal Communities: The Localities Embracing and Accepting Diversity (LEAD) Experiences of Racism Survey. Melbourne, The Lowitja

² Paradies Y, Harris R & Anderson I (2008) The Impact of Racism on Indigenous Health in Australia and Aotearoa: Towards a Research Agenda. Discussion Paper No. 4, Cooperative Research Centre for Aboriginal Health, Darwin

Modernisation of the Anti-Discrimination Act

³ Bolger 1991; Rothwell 2011; Lloyd 2014 cited in Putt, J., Holder, R., and Shaw, G. (2017) Alice Springs Integrated Response to Family and Domestic Violence project Final evaluation report. University of New England

⁴ Putt, J., Holder, R., and Shaw, G. (2017) Alice Springs Integrated Response to Family and Domestic Violence project Final evaluation report. University of New England

⁵ Putt et al (above)

⁶ Australian Institute of Health and Welfare (AIHW) (2014b) Homelessness among Indigenous Australians. Cat. no. IHW 133. Canberra: AIHW

⁷ Australian Housing and Urban Research Institute (AHURI) (2010) Indigenous homelessness, AHURI Research & Policy Bulletin Issue 134 December 2010. Available:
https://www.ahuri.edu.au/data/assets/pdf_file/0018/3078/AHURI_RAP_Issue_134_Indigenous-homelessness.pdf

⁸ Flinders University Southgate Institute for Health, Society and Equity: Aboriginal health in Aboriginal hands. Community Controlled Comprehensive Primary Health Care @ Central Australian Aboriginal Congress, 2016, p 19.

⁹ Australian Bureau of Statistics (ABS) (2016) National Aboriginal and Torres Strait Islander Social Survey, 2014-15. Available:
<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4714.02014-15?OpenDocument#Publications>

¹⁰ Australian Council of Social Service / Social Policy Research Centre (2016) Poverty in Australia. ACOSS, Strawberry Hills.

¹¹ Dudgeon P, Milroy H and Walker R, Eds. (2014). Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice (2nd Edition). Canberra, Commonwealth of Australia