

the time necessary to consider this matter given the amount of notice that it has been possible to provide. The NRCC respects the need for the wider church to have time to think about this issue but also values, should it be possible, the support of the Assembly in its quest for a treaty. Therefore the proposal only seeks that the matter be referred to the incoming Standing Committee so that further discussion can take place with the knowledge and support of the full Assembly.

If this proposal passes it will not affect the operation of the Standing Committee established timelines in future Assemblies. Its purpose is to allow the Assembly to express its willingness to hear more from the NRCC on this matter through the Assembly Standing Committee.

## **65. YOLNGU NATIONS ASSEMBLY CALL FOR A TREATY (Northern Regional Council of Congress)**

### **That the Assembly**

1. notes the decision of the Northern Regional Council of Congress that it:
  - (a) acknowledges that Arnhem Land was not conquered or occupied by foreigners in the colonial era, nor succeeded by a foreign jurisdiction through a treaty;
  - (b) acknowledges that the Maḏayin system of law, that pre-existed the Australian system of law, remains the properly constituted 'law of the land' in Arnhem Land;
  - (c) acknowledges that it is through the Maḏayin system of law that Arnhem Land has Māgaya- peace, order, and good government;
  - (d) acknowledges that the Maḏayin system of law is dhapirrk consistent in its statutes; is guarded by the Yothu Yindi separation of powers; is stewarded through our lawful authorities and government; and is revealed by the Creator to the Givers of Law:- Djaṅ'kawu and Barama Ḳany'tjun;
  - (e) acknowledges that although our Arnhem Land members are granted Australian citizenship at birth they are first subject to the Maḏayin system of law, and as such, will endeavour to fulfill the Maḏayin system of law in all its workings in Arnhem Land, unless morally irresponsible;
  - (f) acknowledges that the Australian system of law now plays a secondary role in Arnhem Land towns;
  - (g) will work to try and enhance collaboration between the Australian system of law and the Maḏayin system of law, within Arnhem Land;
  - (h) acknowledges that if the people of Arnhem Land are to have the freedom and scope to live, think, and develop in a way that suits them they need an internationally recognisable treaty protecting this right;
  - (i) supports the historical and continuing request for a treaty between the tribes of Arnhem Land and the Australian Government, that recognises inalienable tribal land ownership and the jurisdiction of the Maḏayin system of law, including its institutions, and it's authorities; and
  - (j) will assist advocacy attempts to achieve (h) and (i).
2. refer the NRCC material to the ASC and request it to work with Congress to give further consideration to the request for support for a treaty for the tribes of Arnhem Land.

### **Rationale**

Arnhem Land is roughly the area designated by the former Arnhem Land Aboriginal reserve, covering the North Eastern portion of the Northern Territory, and amongst others includes the Yolngu and Bininj peoples who were strongly involved in the Methodist Overseas Mission towns of this region.

The Uniting Church has a strong ongoing relationship with the people of Arnhem Land due to its missionary history in the region, originally under the organisation of the Methodist Overseas Mission. The Uniting Church had missionary communities at South Goulburn Island, Croker Island, Millingimbi, Ramingining, Galiwinku, Gapuwiyak and Yirrkala. Today the church still has a strong affiliation with these communities, as well as Maningrida.

When the church left their missionary communities, handing them over to the control of

community councils, it was supposed that this would assist the local people in achieving greater self-determination, self-management and independence. Notwithstanding the achievement of the Northern Territory Land Rights Act (1976), it is now clear that this ideal did not eventuate as successive Northern Territory and Australian Governments have eroded community control and discarded any collaboration with traditional law, institutions, customs and conventions (the Maḡayin system of law). The 2006/ 2007 Federal Government Emergency Response encapsulates this but NT government policies are also evidence of this disempowerment, including the defunding of homelands, the defunding and banning of Bilingual education, and the forced seizure of community council assets and the declaration of super shires.

The Federal Crimes Act has banned the consideration of traditional aboriginal law or custom in the judgment of crime and since 2007 police stations have been established in many more former missions to enforce Australian law.

In the meantime, and under pressures from exploitative business agents, both Federal and Northern Territory governments are moving to weaken the NT Land Rights Act.

What we are witnessing in Arnhem Land is the movement of colonization achieved in the south a hundred and fifty years or more ago.

Among Arnhem Land people the missionary past is viewed mostly as a time of promise and hope. The Methodist Missionaries came with a general respect for culture, tried to empower indigenous people in town governance, and taught skills of the industrialised world. They are also respected for introducing Jesus to Arnhem Land, which by Gods hand enabled a revelation of the personal Creator as yet unknown. Yet another story underlies this, a strong question is developing. Were the missionaries a cavalcade of 'peace' to fool Arnhem Landers into trusting foreigners? Were the missionaries responsible for opening a pathway to exploitation, as cultural supplanters with a smile?

Recognition of First Nations Peoples in the Australian constitution is important, but it is a mistake for the church to make a false divide between this issue and the ongoing and drastic needs of the North to have their sovereignty needs dealt with. Why cannot 'Recognise' and 'Treaty' advocacy work together? Shouldn't the two movements inform each other in praxis?

The people of Arnhem Land need a treaty as soon as possible to protect their rights to live the life God meant for them. This is only possible with a treaty that recognises inalienable tribal land ownership and the Maḡayin system of law.

If Arnhem Land does not get this then Australia is guilty of continuing colonial expansionism, and the church is guilty of assisting this agenda. Living blood is on our hands.

This request builds on the 1988 Barunga Statement, the 1998 Miwatj Petition, and the 2008 Yirrkala Bark Petition.