TREATY IN THE NORTHERN TERRITORY

WHAT IS TREATY?

HISTORY OF TREATY IN THE NORTHERN TERRITORY

WHERE ARE WE UP TO?

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What is Treaty?

Treaty can be used to describe a range of agreements between states, nations, governments or people.

Treaty can include a single treaty, an overarching treaty with separate side agreements, or multiple treaties with the Northern Territory Government and different Aboriginal groups throughout the Territory.

However the Northern Territory may need multiple treaties to be relevant for the lives of individuals and their communities. There may be more than one treaty and more than one Aboriginal group that is a party to a treaty.

The Northern Territory’s Government has advised they will openly discuss with Territorians about what treaty means to them and progress a treaty between Aboriginal Territorians and the Government.

Discussions with Aboriginal people will determine how they are represented in the treaty making process.

A treaty or treaties will set the foundation for future agreements between Aboriginal people and the NT. Treaties can provide the opportunity of allowing both parties to negotiate and agree on rights and responsibilities to establish a long lasting relationship between the Northern Territory and Aboriginal people.

"We as a nation must come face to face with our dark and traumatic history. We must confront the impact of colonisation and begin the process of acknowledgment, recognition and healing... Anyone who has listened to me talk publicly knows that I am concerned with what I call ‘unfinished business’. A Treaty is a good place to start with addressing this unfinished business"

Professor Mick Dodson, NT Treaty Commissioner

References

1. SBS, Explainer: What is a Treaty?
2. United Nations Declaration on the Rights of Indigenous Peoples articles 3, 4, 5, 6, 19, 20, 26, 27, 28, 37, 38
4. NITV, Treaty for Dummies
5. Department of the Chief Minister, Northern Territory Government, Treaty in the Northern Territory [2019]
The Yirrkala Bark Petition in 1963 against mining on the Gove Peninsula was signed by senior men of the affected clans, and was presented to the Australian Governor General. The petition called for a Parliamentary Committee to hear the views of the people of Yirrkala before permitting the excision of their land.

The Supreme Court of the Northern Territory considered a challenge by the Yolngu people who sought a declaration that they enjoyed legal rights to their traditional land. Despite Justice Blackburn rejecting their claim to native title over the Gove peninsula, he held that they possess a subtle and highly elaborate system of laws.

Later in 1971, the Larrakia people organised a petition to Queen Elizabeth II describing themselves as refugees in the country of their ancestors and called for land rights and political representation.

The Northern Territory is granted self-government in 1978.

An elected body advising government, called the Aboriginal Conference, passed a resolution calling for a 'Makarrata'. The Aboriginal Treaty Committee also helped develop political momentum for a treaty with the non-Indigenous community.

Uluru was returned to its Traditional Owners.

The Wenten Rubuntja (Central Land Council) and Galarrwuy Yunupingu (Northern Territory Council) present the Prime Minister Bob Hawke with the 'Barunga Statement', calling for a Treaty.

The Prime Minister Bob Hawke commits to a Treaty by 1990. However, met by a hostile opposition, the Coalition shelved the idea in 1991.
The Kalkaringi Statement is prepared in response to the Northern Territory’s bid for statehood in 1998, stating a failure on the part of the Northern Territory Government to negotiate with Aboriginal people. The Statement called for self-government, recognition of Aboriginal structures of law and governance, land rights to be protected, effective levels of representation in parliament, and a guarantee of human rights.

In September 2016, Yingiya Mark Guyula wins the Northern Territory seat of Nhulunbuy with 1,648 votes. On 12 September 2016, the Chief Minister for the Northern Territory, Michael Gunner, declared that his Government would establish a subcommittee on Aboriginal affairs to ‘drive public discussions on a treaty.’

In 2017, the Uluru Statement from the Heart calls for a truth-telling and for Treaty process in Australia. The Statement recommended the establishment of a representative body that gives Aboriginal and Torres Strait Islander First Nations a Voice in the Commonwealth Parliament.

The Northern Territory and Land Councils agreed to establish a Treaty Working Group to develop a Memorandum of Understanding in March 2018.

On 8 June 2018 the Northern Territory Government and all four Aboriginal land councils signed the historic agreement to begin treaty talks. The Barunga Agreement commits all parties to a three-year process to consult all Territorians to develop a process to negotiate a treaty, with the aim of achieving real change and substantive long-term benefits for Aboriginal people.

Professor Mick Dodson was announced the Treaty Commissioner in March 2019. The Commission is required to deliver an interim report and discussion paper within 12 months of appointment, and then a final report on the outcomes of consultations, recommendations and a proposed negotiation framework for Treaty in the Northern Territory.

References
1. Treaty timeline: Events from 1935 to today [2019], Jens Korff: Creative Spirits
3. Reconciliation Australia, Reconciliation Timeline
4. AIATSIS, The Barunga Statement
5. Uluru Statement from the Heart
Where are we up to?

At this time, the Northern Territory as a territory is granted its ability to self govern by the North Territory (Self Government) Act 1978 (Cth). A Treaty cannot be inconsistent with what the Act allows. A treaty or treaties also cannot be inconsistent with any Commonwealth legislation such as the Aboriginal Land Rights (Northern Territory) Act 1978 (Cth) and the Native Title Act 1993 (Cth).

However, the Northern Territory Government supports the Uluru Statement from the Heart, and at the Barunga Festival in 2018 a memorandum signed by the four land councils and the Chief Minister for the Northern Territory agreed as follows:

- Aboriginal people, the First Nations, were the prior owners and occupiers of the land, seas and waters that are now called the Northern Territory of Australia.
- The First Nations of the Northern Territory were self-governing in accordance with their traditional laws and customs; and that
- First Nations peoples of the Northern Territory never ceded sovereignty of their lands, seas and waters.

“*There has been deep injustice done to the Aboriginal people of the Northern Territory, including violent dispossession, the repression of their languages and cultures, and the forcible removal of children from their families, which have left a legacy of trauma, and loss that needs to be addressed and healed.*”

**The Barunga Agreement Statement 2018**

Now that Professor Mick Dodson has been appointed the Northern Territory’s Treaty Commissioner, his first task is to find out if Aboriginal Territorians want a treaty or treaties. He then intends to develop a framework for negotiating future treaties based on mutual respect, good faith, and equality of standing and cultural appropriateness.

A treaty may include a number of different opportunities and rights such as acknowledgment of the First Nations people of the Northern Territory; truth telling process around the history of the territory; protection and support of Aboriginal language and culture; land and sea matters; potential reparations for past injustices; and mechanisms for accountability.
Where are we up to?

However, developing a treaty or treaties will take time. The Northern Territory advised they would begin talking to communities in late 2018, and conversations have begun with Aboriginal organisations. An inclusive process must be established that supports open discussion and engagement. Commitment to working together and patience to get treaty and treaties right is crucial.

“When we think about what we’re here for. I’d like all of us to take away from here a yearning to see that product finished, so that we can have a treaty with our first Australians.”

Warren Snowdon, the Federal Member for Lingiari

References

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1. Barunga Agreement Statement 2018
2. Treaty in the Northern Territory [2019] Department of the Chief Minister, Northern Territory Government
“What Aboriginal people ask is that the modern world now makes the sacrifices necessary to give us a real future. To relax its grip on us. To let us breathe, to let us be free of the determined control exerted on us to make us like you... recognise us for who we are, and not who you want us to be. Let us be who we are – Aboriginal people in a modern world – and be proud of us.

Acknowledge that we have survived the worst that the past had thrown at us, and we are here with our songs, our ceremonies, our land, our language and our people – our full identity. What a gift this is that we can give you, if you choose to accept us in a meaningful way”

Referendum Council member, Galarrwuy Yunupingu
in his essay ‘Rom Watangu’