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## 6 Holding governments to account

### **Jody Broun<sup>1</sup>**

I begin by acknowledging the Ngunnawal and Ngambri people.

I also acknowledge Les Malezer, Gary Banks and Robert Fitzgerald; Fred Chaney and Justin Mohammed.

I have been asked to speak on the role of non-government organisations in holding governments to account — something I have experienced from both sides of the relationship, but I have generally been in roles where non-government organisations have been holding me to account. Community working parties, the Aboriginal Health and Medical Research Council, the New South Wales Aboriginal Land Council, all harsh judges — so I can tell you that I prefer to be on this side of that relationship.

I'm not going to cite reams of statistics at you, nor am I going to give you a history lesson; however, as you would have heard this afternoon, the history of Aboriginal policy in Australia is littered with examples of poor policymaking, and even poorer outcomes for Aboriginal people — some of that policy, unfortunately, has even been recycled!

A lack of genuine engagement of Aboriginal people and their representatives has resulted in keeping outcomes low and expectations lower!

The 2010 report (released under FOI in 2012) of the Australian Government Department of Finance and Deregulation that assessed the capacity of the Commonwealth's array of programs and whole-of-government coordination to achieve the Council of Australian Governments (COAG) Closing the Gap objectives concluded:

Despite the concerted efforts of successive Commonwealth, State and Territory governments to address Indigenous disadvantage, progress has been mixed at best, modest improvements in some areas have been offset by static or worsening outcomes elsewhere ... Past approaches to remedying Indigenous disadvantage have clearly failed, and new approaches are needed for the future. (DoFD 2010)

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While we might disagree that there have been concerted efforts, we could agree with the further point in the report that:

Robust evidence is lacking on the performance and effectiveness of many Indigenous programs ... Program evaluation activity ... has been patchy at best, and many of the evaluations which have been conducted have lacked a suitable measure of rigour and independence. (DoFD 2010)

Rigour and independence — both crucial elements in any accountability and evaluation framework.

This situation means that non-government and independent organisations have a valid and important role in evaluating government policy objectives and program delivery and in holding government to account for outcomes.

There has been a history of non-government organisations, black and white, challenging government policy settings and holding the governments accountable for outcomes in Aboriginal and Torres Strait Islander policy. Many examples exist in our history where the monitoring by non-government organisations has driven the policy responses of government.

The Royal Commission into Aboriginal Deaths in Custody was demanded for many years by Aboriginal and non-Aboriginal non-government, legal and advocacy bodies due to the unacceptable conditions and numerous deaths of Aboriginal prisoners.

The various legal services at the time all contributed to applying pressure for the royal commission which, when it was finally appointed in 1987, examined the deaths in custody of 99 individuals in the previous nine years and five months. It resulted in 339 recommendations for social policy reform and systemic reforms in justice, but also in other areas. Unfortunately, not all the recommendations have been implemented or continued and we are still seeing unacceptable deaths in custody across the nation.

Organisations such as the Australian Council of Social Service, Australians for Native Title and Reconciliation and Amnesty International, all play vital roles in holding government to account and evaluating performance in their areas of expertise. Independent monitoring is crucial as mentioned earlier.

While governments are also improving their accountability frameworks, transparency and monitoring of outcomes, internal reporting can sometimes hide real outcomes.

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The Prime Minister reports annually to parliament on progress in meeting the Closing the Gap targets, but undoubtedly we still need independent analysis of these reported outcomes. Non-government organisations play an important role in monitoring the real outcomes on the ground.

The Department of Finance and Deregulation report is a good — if slightly unwelcome — example of internal review and assessment. Although, disappointingly, there is a reluctance to take on much of the common-sense, practical recommendations from the report.

However, I believe there is a stronger commitment to transparent reporting and built-in evaluation. The COAG National Indigenous Reform Agreement (agreed in 2008 and refreshed in 2011) acknowledges the deficiencies in data and reporting and has committed all governments to ‘enhanced reporting against specific indicators ... ensuring their data is of high quality and is available for reporting’ and ensuring that data quality improvements ‘are achieved as set out in schedule F’ (COAG 2011).

Institutions such as the Australian Human Rights Commission (AHRC), the Productivity Commission, the COAG Reform Council and the National Mental Health Commission all contribute to overall accountability of government.

The Steering Committee for the Review of Government Service Provision, for which the Productivity Commission provides the chair and secretariat, produces the regular *Overcoming Indigenous Disadvantage* (OID) report, which provides accountability, reliable data analysis and comparative studies of outcomes in Indigenous policy and programs across Australia that assist in identifying good practices, successful policy interventions and case studies. As noted in the most recent edition:

The report is more than a collection of data, it draws on extensive evidence to identify areas where government policies can have the greatest impact. (SCRGSP 2011, p. 1)

I was actively involved in one of my earlier roles in the identification and agreement of the indicators framework and have viewed, with some satisfaction, the report’s evolution to being an essential and much awaited contribution to the policy debate, and I congratulate Gary Banks and Robert Fitzgerald on its success.

As Director General of Aboriginal Affairs in New South Wales, I applied the principles of the OID report to the *Two Ways Together* (TWT) policy for working in partnership with Aboriginal people, whole-of-government coordination, and accountability for outcomes. TWT included an annual report against key indicators that was provided to the New South Wales Premier.

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So what about Congress and our role in holding government to account? First a quick introduction to Congress.

Congress is part of the legacy provided by courageous fighters and leaders from many generations. Congress is a company, independent of government, established to realise our aspirations and be part of the continuing journey to achieve rights and justice for the first peoples of this country.

Over the decades there has been a variety of models representing the interests of Aboriginal and Torres Strait Islander peoples.

In 1973 the National Aboriginal Consultative Committee (NACC) was launched as an advisory body to the Whitlam Government. The NACC morphed into the National Aboriginal Conference in 1977 under the Fraser Government.

The Aboriginal and Torres Strait Islander Commission (ATSIC) was established in 1989 and provided a really strong representative model with elected members in regional councils across the country and commissioners at the national level, influencing and developing policy and programs.

And ATSIC was influential.

I was Executive Director of Aboriginal Housing and Infrastructure in Western Australia for eight years and had to negotiate with nine ATSIC regional councils to formulate a bilateral agreement between the State and Commonwealth governments. It was hard work and took three years, but it was worth the wait to have a good governance model with Aboriginal decision-making, integrated planning and service delivery at the heart of it.

When ATSIC was abolished in 2005, a national body was necessary once again.

Community demands for a national body, commitments from political parties in the lead up to the 2007 federal election, and national consultations led by Tom Calma and Jackie Huggins, set the groundwork for the Congress to be established.

Congress is the only company registered with the Australian Securities and Investments Commission to include gender equity in its constitution and we are responsible for giving a national voice to our members and the broader Aboriginal and Torres Strait Islander community.

Since our establishment just over two years ago we have signed up over 4500 individual members and 150 organisations.

Congress is a very different organisation to ATSIC:

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- we are a company not created under legislation
  - membership is at the heart of the organisation
  - we are not involved in service delivery
  - we don't have a regional structure.

Our purpose, outlined in our constitution, is:

- to provide national leadership and recognition of the status and rights of Aboriginal and Torres Strait Islander peoples as first nations peoples
- to protect and advance the wellbeing and rights of Aboriginal and Torres Strait Islander peoples and communities
- to be a representative voice of, and a conduit for communications with and between, Aboriginal and Torres Strait Islander peoples
- to secure economic, political, social, cultural and environmental futures for Aboriginal and Torres Strait Islander peoples by working with governments, service providers, communities and other stakeholders
- to build strong relationships based on mutual respect and equality with government and industry, and among Aboriginal and Torres Strait peoples
- to identify issues, research solutions and educate government, service providers and Aboriginal and Torres Strait islander peoples.

The Congress structure has three chambers representing peak bodies, organisations and individuals.

We have a board of eight: the male and female co-chairs are elected by the whole membership and a male and female director are elected from each chamber.

One hundred and twenty delegates meet each year — 40 from each of those chambers.

Additionally, there is an ethics council to ensure that Congress policy and practice meet the highest ethical standards.

In representing our members we seek to work in unity and to engage and draw on the expertise of our members; not to replace or duplicate their roles, or, in particular, the role of peak bodies.

As we know, the rights and unique place of first peoples have international recognition.

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The Declaration on the Rights of Indigenous Peoples was supported by the United Nations in 2007 and supported by the Australian Government in April 2009, and provides a platform for a partnership between Aboriginal and Torres Strait Islander peoples and government.

Congress is recognised as being an expression of the declaration, particularly Article 18:

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision making institutions. (UN 2007)

Congress has identified the declaration as the platform for our relationship with government and the promotion and protection of rights is a primary purpose for our organisation. We will work with the AHRC, the Australian Government and our peoples to ensure the rights in the declaration are acknowledged, understood and realised.

The report *2009 Our Future in our Hands* saw Congress as:

An important mechanism to assist government in shaping its approach and in holding them accountable for service delivery to individuals and communities ... This includes by ensuring that there are adequate monitoring and evaluation processes in place to ensure that our communities are benefiting from services that are designed to assist us. (AHRC 2009)

Since those of us on the inaugural elected board took up our roles in July 2011 the Congress has contributed strong positions on the Northern Territory Stronger Futures legislation, languages, education, national cultural policy, health equality and the recognition of Aboriginal and Torres Strait Islander peoples in the Constitution — to name a few. A rights framework shapes our responses to these issues.

We have established policy working groups on a range of priorities identified by our members — on health, education, justice, country and sovereignty — and the work plans for each of those working groups hold government to account for outcomes. For instance, one of the strategies in the justice workplan is to develop justice targets for inclusion in the Closing the Gap framework.

Clearly, to achieve our objective of holding governments to account and promoting a rights agenda we require data — data that is reliable and robust.

Congress can and should be questioning government reports and providing shadow reports — acknowledging that poor, inconsistent and incomparable data still

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affects the design, targeting and evaluation of government service delivery and measuring of outcomes.

One well-developed area that Congress is involved in is health.

Health was identified in the first survey of members as the highest priority for Congress and so a number of actions have been taken over the past year to position Congress in national policy development.

- the National Health Leadership Forum (NHLF) was established in August 2011. It comprises 12 peak organisations representing Aboriginal and Torres Strait Islander health and sits within Chamber 1 of Congress. All are non-government organisations and each has its own area of expertise.
- Every major Aboriginal or Islander national health organisation is represented in this forum. The members are:
  - the Aboriginal and Torres Strait Islander Healing Foundation
  - the Australian Indigenous Doctors' Association
  - the Australian Indigenous Psychologists Association
  - the Congress of Aboriginal and Torres Strait Islander Nurses
  - Indigenous Allied Health Australia
  - the Indigenous Dentists' Association Australia
  - the Lowitja Institute
  - the National Aboriginal and Torres Strait Islander Health Worker Association
  - the National Aboriginal Community Controlled Health Organisation (NACCHO)
  - the National Association of Aboriginal and Torres Strait Islander Physiotherapists
  - the Torres Strait Regional Authority.
- The NHLF is co-chaired by Justin Mohamed, Chair of NACCHO, and myself and has its own independent secretariat funded by members and the Department of Health and Ageing. (I want to acknowledge the members of the NHLF who are here today.)
- The NHLF is a partnership vehicle for the development and implementation of health policy and programs and is leading the way in which Congress can work as an interface between peak bodies and government.

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- While all NHLF members have held government to account in the past, our capacity to do this is strengthened as a collective. The NHLF is all of these organisations speaking with one voice.
  - A further function of the NHLF is to lead the Close the Gap Campaign for Indigenous Health Equality, which reflects the fact that the Close the Gap Campaign's Indigenous Leadership Group was the precursor to the NHLF.
  - The Close the Gap (CTG) Campaign was founded by the then Social Justice Commissioner Dr Tom Calma in 2006.
  - It was the first time relevant health and human rights bodies, Aboriginal and Torres Strait Islander and non-Indigenous, sat at the 'same table' to discuss health equality. The steering committee includes Oxfam, Amnesty International and the Australian Medical Association.
  - It was definitely about non-government organisations holding government to account for improving health outcomes.
  - An annual shadow report on health targets is done independently and with input from all member organisations.
  - The CTG campaign led the national effort to achieve Aboriginal and Torres Strait Islander health equality, securing bipartisan support for the commitments in the Close the Gap Statement of Intent, including the development of a national comprehensive plan to achieve health equality within a generation announced late last year.

In the 2009 *Our Future in Our Hands* report, the role of Congress in contributing to close the gap was envisaged as:

- providing the basis for a new relationship with government based on genuine engagement and partnership
- ensuring that there is a shared journey between Aboriginal people and governments
- holding governments to account for their performance — ensuring that they remain focused over the longer term and have transparent accountability frameworks (AHRC 2009).

The NHLF and CTG Campaign are practical manifestations of this in the health area but also provide a model for the other policy areas.

The new Aboriginal and Torres Strait Islander Health Plan was announced in November last year and Congress, through the NHLF, are having an active role in its development.



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- The Health Plan will give effect to the Australian Government’s undertaking to close the gap in life expectancy and infant mortality between Aboriginal and Torres Strait Islander Australians and the broader population.
  - The NHLF has contributed inputs to the development of the plan and discussion paper.
  - The critical factors of success for the plan are:
    - facilitating partnerships, shared ownership and Aboriginal and Torres Strait Islander leadership at national, regional and local levels (the NHLF provides the perfect interface for this at the national level)
    - targeting barriers to good health, enabling access to health services and the social determinants of health, and recognising the role that connection to culture has in the enjoyment of health for Aboriginal and Torres Strait Islander peoples
    - recognising racism, its impact and solutions (this includes addressing systemic and institutionalised racism within the health system).
  - The NHLF has recommended key principles for the health plan:
    - **A holistic definition of health.** Health is not merely the absence of disease. In the Aboriginal context, health is complex and multi-faceted, including the physical, social and emotional health of individuals, and the wellbeing of whole communities. The holistic definition of health incorporates broader issues of social justice, wellbeing and equity as key attributes of health for Aboriginal peoples.
    - **Adopt a rights-based approach to health.** This requires active participation in the development and implementation of health policy and programs. It also provides useful guidance as to the various roles and responsibilities that should be reflected in the health plan; in other words, the Government’s responsibility is not to make people healthy but to provide people with equal opportunities to be healthy, and to develop an effective health system that is available, accessible, acceptable and of sufficient quality.
    - **Shared ownership between Aboriginal and Torres Strait Islander peoples and all levels of government.** Past health plans demonstrate that to be successful there must be buy-in and commitment to the plan by both Aboriginal and Torres Strait Islander communities and governments.
    - **Adopt strengths-based approaches.** The health plan should help empower Aboriginal and Torres Strait Islander communities.

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- **Address social determinants.** The health plan must create linkages with other policy areas and health impact should be taken into consideration for the development of all government policy.
  - **Community control.** The health plan must facilitate and build the capacity of Aboriginal community controlled health services. There should also be an increased Aboriginal and Torres Strait Islander contribution into the governance of mainstream health care.
  - **Capacity building of the health sector and workforce.** This includes building the cultural competency of health professionals and increasing the number of Aboriginal and Torres Strait Islander peoples employed in health professions and the health bureaucracy.
  - **Structures and processes are in place to evaluate the plan and provide accountability.** These accountability mechanisms should facilitate Aboriginal and Torres Strait Islander leadership.

We hope that we have all learned from past policy, implementation and accountability failures and that we can apply those lessons to this plan.

Clearly, the government, non-government and private sectors have a shared responsibility to improve outcomes for Aboriginal and Torres Strait Islander peoples and Congress has a role in holding governments to account, but also in challenging our own organisations for accountability and strong governance.

We see the Productivity Commission as a key partner in fulfilling that role but equally there are a number of other organisations that we can work with and whose expertise we can utilise—the Australian Institute of Aboriginal and Torres Strait Islander Studies, university research centres like the Centre for Aboriginal Economic Policy Research and the Australian Institute of Health and Welfare. There is a lot of potential for partnership across the non-government and research sectors.

We have already commenced this relationship with the Productivity Commission. Congress also envisages being a major player in COAG Aboriginal and Torres Strait Islander processes and issues and having a seat at that table, as implied in the National Indigenous Reform Agreement.

There needs to be a broad monitoring and evaluation framework to enhance transparency and accountability — driven by Congress.

As evidenced by the formation of the NHLF, we are stronger together if we have a common voice. This is an area Congress is keen to pursue.

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Congress has one of the important elements — independence — but we also need the robust framework and access to reliable data to realise our role.

As concluded in the Department of Finance report: past approaches to remedying Indigenous disadvantage have clearly failed, and new approaches are needed for the future.

Congress is part of that new approach and, working with all our non-government organisational members, we will hold government to account for working in new ways too.

Thank you

## References

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