

# ANTaR Election Priorities 2010

## Justice, Rights and Reconciliation for Aboriginal and Torres Strait Islander peoples

### 1. Reconciliation: time to deal with unfinished business

The Council for Aboriginal Reconciliation reported in 2000 after a 10 year consultation and community engagement process. The report contained a *Declaration towards Reconciliation* and a *Roadmap for Reconciliation*.

Since then some important progress has been made towards recognising Indigenous rights and the need for justice. The National Apology caused the nation to pause and reflect on Australia's history and offered real hope for a reconciled and just future. However, this important step is only part of a much larger reconciliation process.

**This election, ANTaR calls on all parties to commit to:**

- Adopting the Council of Aboriginal Reconciliation Roadmap and Declaration as a framework for negotiation with Aboriginal and Torres Strait Islander Australians to address the 'unfinished business' of reconciliation; and
- In consultation with Aboriginal and Torres Strait Islander peoples, enacting legislation for a constitutional referendum which seeks to:
  - Prepare a new preamble to the Constitution which recognises the status of the first Australians; and
  - Remove section 25 of the Constitution and introduce a new section making it unlawful to adversely discriminate against any people on the grounds of race.<sup>1</sup>

### 2. Creating safe and sustainable Northern Territory communities

The 2007 *Little Children are Sacred* (LCAS) report highlighted the extent of child sexual abuse, family violence and dysfunction in some remote Northern Territory communities. It contained 97 recommendations to make children and communities safer.

Largely rejecting the LCAS recommendations, the Federal Government introduced the Northern Territory Emergency Response (NTER) or 'Intervention' on 21 July 2007. A range of radical measures were announced without consultation with affected communities. Many of the measures were coercive, intrusive and in breach of human rights obligations. The *Racial Discrimination Act* was suspended in relation to the NTER

<sup>1</sup> See the Council for Aboriginal Reconciliation, *Reconciliation: Australia's Challenge*, December 2000.

measures. Since 1 July 2010 the Act has been partially reinstated; however, the NTER remains discriminatory and disempowering.

ANTaR believes that ongoing action to make children, families and communities safe must be a national priority. However, we insist that this must be done in partnership with Aboriginal communities and in a way which builds the capacity of communities to respond to the specific challenges each community faces and respects human rights.

**This election, ANTaR calls on all parties to commit to:**

- A real shift from a coercive to a sustained community development approach as recommended by the LCAS Report;
- The full reinstatement of the *Racial Discrimination Act* to all NTER measures;
- Moving away from a compulsory, blanket income management model towards models which are voluntary or community-supported, and complemented by intensive case management and support services;
- Amending the NTER legislation to end compulsory five year leases and instead seeking to obtain free, prior and informed consent of traditional owners for voluntary lease arrangements<sup>2</sup>; and
- Removing other coercive elements of the NTER.

### 3. Protecting rights to land, culture and language

The potential of native title rights to deliver social, cultural, spiritual and economic benefits to Indigenous peoples has not been fulfilled. This is partly due to the litigious nature of the native title system, which involves long delays and high costs, and the limitations on the uses of native title land.

ANTaR supports moves towards negotiated native title outcomes. However, we believe that governments have a key role to play in creating a level negotiating field to enable fair and equitable outcomes to be achieved.

Indigenous languages are critically endangered in Australia and are disappearing faster than anywhere else in the world. The release of the national Indigenous languages strategy in 2009 was a welcome first step towards preserving Indigenous languages. However, the strategy needs to be supported by increased resources to ensure it has a real impact.

**This election, ANTaR calls on all parties to commit to:**

- Providing additional resources to Native Title Representative Bodies to ensure they are adequately resourced to represent Indigenous peoples in native title negotiations;
- Providing additional resources to Prescribed Bodies Corporate to ensure that they are able to fulfill their responsibilities to manage their lands;

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<sup>2</sup> See recommendation 4 of the Social Justice Commissioner's *Native Title Report 2009*.

- Working with Aboriginal and Torres Strait Islander peoples to develop a social justice package which complements the native title system;<sup>3</sup>
- Developing a national Indigenous languages body to assess critically endangered Indigenous languages and resource an ongoing plan of action for the preservation and promotion of Indigenous languages;<sup>4</sup> and
- Providing needs-based funding and support for all homeland communities.

## 4. Implementing the UN Declaration on the Rights of Indigenous Peoples

The Australian Government indicated its support for the UN Declaration on the Rights of Indigenous Peoples on 3 April 2009. The Declaration is a comprehensive statement of Australia's existing human rights obligations to Indigenous Australians. Although it does not create new rights, it provides a comprehensive framework for action.

### **This election, ANTaR calls on all parties to commit to:**

- The full implementation of the UN Declaration into domestic law and policy;
- Including the UN Declaration in the human rights legislative scrutiny process;
- Developing, as a priority, and in consultation with Indigenous peoples, clear protocols and guidelines for the implementation of the right to free, prior and informed consent;
- Giving real effect to the right of Indigenous peoples to develop and administer health, housing and other economic and social programs affecting them (Article 23); and
- Giving serious consideration to the enactment of a national human rights act, which includes the rights contained in the UN Declaration, when the National Human Rights Framework is reviewed.

## 5. Justice reinvestment: a new approach to crime prevention that makes economic and social sense

Aboriginal and Torres Strait Islander people are severely over-represented in the criminal justice system, with Indigenous adults imprisoned at a rate 13 times higher than non-Indigenous adults and juveniles 28 times more likely to be detained than their non-Indigenous counterparts.

Recent trends show that Indigenous incarceration rates are increasing, not decreasing. Despite the high cost of imprisonment – at \$1309 per prisoner per week – recidivism rates are high (at about 73% for Indigenous offenders).

It is time for a radical rethink of our approach to Indigenous offending.

<sup>3</sup> See detailed recommendations by former Social Justice Commissioners Mick Dodson in *Social Justice Report 2005* and Tom Calma in *Native Title Report 2008*.

<sup>4</sup> This was a recommendation of the Social Justice Commissioner in the 2009 *Social Justice Report*.

Justice Reinvestment is based on the principle that prevention pays dividends. Successfully trialled in the US and UK, it works by diverting a portion of the funds that would normally go to imprisonment to local communities where there is a high concentration of offenders to address the underlying causes of offending.

**This election, ANTaR calls on all parties to commit to implement the recommendations of the Social Justice Report 2009:**

- To set criminal justice targets through COAG that are integrated into the Closing the Gap agenda; and
- To fund pilot Justice Reinvestment projects in targeted communities, with a view to rolling-out the scheme more broadly informed by evidence from these pilots.

## 6. Supporting Indigenous economic development

Maximising the benefits obtained by Indigenous peoples from native title and Aboriginal land should be a key priority for governments. While agreement-making has the potential to deliver substantial benefits to communities, reform is needed to clarify the ways in which native title rights can be used to support economic development.

COAG has committed to halving the employment gap between Indigenous and non-Indigenous Australians by 2018.

As a result of recent changes to the Community Development Employment Program (CDEP), the program is no longer available in urban, regional and remote areas assessed to have established economies. Although the program continues in some remote areas, since 1 July 2009, new participants receive payment for work in the form of income support payments rather than wages, are denied the incentive to work additional hours and earn on average \$100 less per week.

The creation of more than 1500 full funded government service delivery positions to replace CDEP positions is a welcome first step. Government procurement policies to encourage corporate social responsibility in relation to Indigenous employment and training and the use of Indigenous suppliers will also make a positive difference. However the gap between abolished CDEP positions and new jobs created is significant, meaning many people have been disadvantaged by the changes.

Further, these measures alone will not achieve the COAG employment target nor build a strong economic future for Indigenous Australians. Governments must continue to invest in opportunities for flexible, incentive-based employment and social enterprise development in regional and remote areas.

**This election, ANTaR calls on all parties to commit to:**

- Working with Aboriginal and Torres Strait Islander peoples and other stakeholders to develop options which would enable native title holders to exercise native title rights for a commercial purpose;

- Increasing the number of fully-funded municipal services positions for Indigenous Australians to replace former CDEP positions; and
- Maintaining a flexible, incentive-based, community directed employment program as an alternative to income support payments in regional and remote communities.

## 7. Sorry is the first step: reparations for the Stolen Generations

The 1997 *Bringing them Home* report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families found that between 1 in 10 and 3 in 10 Aboriginal and Torres Strait Islander children were forcibly removed from their families and communities in the period from 1910 to 1970. This removal occurred as the result of official laws and policies aimed at assimilating the Indigenous population into the wider community.

Research indicates that Aboriginal people removed from their families suffer from poorer outcomes across a range of socio-economic indicators. As a result, the Stolen Generations survivors require a specific, targeted response that comprehensively addresses their needs, as well as broader efforts to close the gap in Indigenous life expectancy and health status.

**This election, ANTaR calls on all parties to commit to:**

- Progressing the priority issues set down in the Stolen Generations' Working Partnership announced on 26 May 2010; and
- The full implementation of the *Bringing them Home* report's recommendations through a comprehensive government response developed in partnership with Stolen Generations groups, as well as Link-Ups and other service providers including restitution, rehabilitation and compensation.

## 8. Compensation for Stolen Wages

Governments around Australia controlled wages, savings and benefits belonging to Aboriginal and Torres Strait Islander people for most of the 20th century. This practice condemned generations of Indigenous families to lives of poverty.

While a few state stolen wages compensation schemes have been created, they have generally provided only token, capped amounts - therefore offering insufficient compensation for lost earnings.

**This election, ANTaR calls on all parties to commit to:**

- Implementing the recommendations of the 2006 Senate Committee report on Stolen Wages, including working with state and territory governments to establish adequate state compensation schemes.

## 9. A comprehensive national plan to Close the Gap

The 10-17 year life expectancy gap between Indigenous and non-Indigenous Australians is a stark indicator of Aboriginal and Torres Strait Islander health inequality.

ANTaR has worked with the Close the Gap campaign coalition to achieve Indigenous health equality since 2007. More than 135,000 Australians have pledged support to Close the Gap.

In March 2008, the Prime Minister, the federal Opposition Leader and key Government Ministers signed the *Close the Gap Statement of Intent* with Indigenous health leaders. In doing so, they committed to developing a plan for Indigenous health equality within a generation and to working in partnership with Aboriginal and Torres Strait Islander peoples and their representatives. In 2007, COAG agreed a range of 'closing the gap' targets, but has failed to match its commitment with a comprehensive, evidence-based implementation plan.

**This election, ANTaR calls on all parties to agree to:**

- Delivering on their commitment to develop 'a comprehensive, long-term plan of action, that is targeted to need, evidence-based and capable of addressing the existing inequities in health services, in order to achieve equality of health status and life expectancy between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians by 2030';
- In particular, the plan must:
  - Build the capacity of Aboriginal Community Controlled Health Services;
  - Ensure equitable access to all relevant mainstream programs and services;
  - Address the social and cultural determinants of health; and
  - Address the health needs of marginalised sub-groups within the Aboriginal and Torres Strait Islander population; and
- Reporting progress against the Close the Gap targets annually on the first sitting day of Parliament.

## 10. Building blocks for health and economic participation: Housing & education

Safe, appropriate and affordable housing and quality education are key building blocks for health and economic participation.

While mainstream national affordable housing policies are currently focused on expanding the mainstream community housing sector, the Indigenous housing agenda is moving in the opposite direction. Governments have increasingly transferred management of Indigenous housing from Indigenous community providers to state government departments. This policy inconsistency is inequitable and contrary to the right to self-determination.

Many Indigenous people continue to miss out on a quality education. Education challenges are greatest in remote Australia. Many remote Aboriginal schools in the Northern Territory lack access to full-time teachers and basic school infrastructure<sup>5</sup> with a 2007 report suggested up to 5,000 potential students under the age of 18 in remote areas have no access to secondary or vocational education services.<sup>6</sup>

**This election, ANTaR calls on all parties to commit to:**

- Substantial additional investment in remote Indigenous education to fund teacher and staff salaries and infrastructure; and
- Removing Australian Government restrictions on new Indigenous community-controlled housing and building the capacity of the Indigenous community housing sector nationally.<sup>7</sup>

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<sup>5</sup> For example, [http://www.culturalsurvival.org.au/docs/Case%20Study\\_Unequal%20Schools.pdf](http://www.culturalsurvival.org.au/docs/Case%20Study_Unequal%20Schools.pdf)

<sup>6</sup> Australian Education Union, *Education is the key: An education future for Indigenous communities in the Northern Territory* (2007).

<sup>7</sup> See, for example, conditions contained in the National Partnership Agreement on Remote Indigenous Housing.