ANTaR | Sea of hands

Australians for Native Title and Reconciliation

A Better Way: Building healthy, safe and sustainable communities in the Northern Territory through a community development approach

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About ANTaR

ANTaR is a national advocacy organisation dedicated specifically to the rights - and overcoming the disadvantage - of Aboriginal and Torres Strait Islander people. We do this primarily through lobbying, public campaigns and advocacy.

ANTaR's focus is on changing the attitudes and behaviours of non-Indigenous Australians so that the rights and cultures of Aboriginal and Torres Strait Islander people are respected and affirmed across all sections of society.

ANTaR seeks to persuade governments, through advocacy and lobbying, to show genuine leadership and build cross-party commitment to Indigenous policy.

ANTaR works to generate in Australia a moral and legal recognition of, and respect for, the distinctive status of Indigenous Australians as First Peoples.

ANTaR is a non-government, not-for-profit, community-based organisation.

ANTaR has been working with Indigenous organisations and leaders on rights and reconciliation issues since 1997.

Executive summary

The Northern Territory Emergency Response (NTER) was introduced in June 2007 as a response to a perceived crisis in child safety in Aboriginal communities in the Northern Territory (NT). From the outset, it was intended by the Federal Government to be an emergency intervention of limited duration.

Since then, the leaders of both major parties have recognised the need for a longer term strategy to support NT remote communities. The timing is now critical, as key legislated NTER measures and funding are due to expire mid-2012. The focus on what happens next has been sharpened with the announcement of a new consultation process by the Australian Government and the release of its *Stronger Futures in the Northern Territory* discussion paper.

Since coming into power in 2008, the Labor Government has amended some aspects of the original NTER legislation to address a number of community concerns. It has also re-branded NTER measures as part of its 'Closing the Gap in the Northern Territory' strategy. However, key aspects of the original NTER considered by many Aboriginal and human rights organisations to be coercive, inconsistent with human rights and unnecessary have been maintained.

Neither the Labor Government nor the Coalition has proposed or committed to the development of a long-term, sustainable community development strategy for Aboriginal communities in the NT despite calls for such a plan by key Aboriginal organisations from the NT.[1] However, both have acknowledged the need to start planning for the next stage in the Government's response to the issues facing remote NT communities.

In responding to *Stronger Futures*, this paper challenges both major parties to support the development of such a strategy, in partnership and negotiation with Aboriginal leaders, organisations and community members.

To be effective, the strategy must:

- Outline a plan to manage the transition beyond the original NTER measures, some of which are due to expire in 2012, including by removing all racially discriminatory elements;
- Closely and meaningfully involve Aboriginal communities in all stages of its development and ensure community consent to any 'special measures';
- Support and strengthen governance in Aboriginal organisations to develop greater community capacity to identify local priorities and develop community solutions;
- Involve a commitment of sustained resources to Aboriginal community controlled organisations to strengthen capacity across a range of sectors and support social and economic development;

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[1] The Combined Aboriginal Organisations of the Northern Territory, 'A proposed *Emergency Response* and *Development Plan* to protect Aboriginal children in the Northern Territory – A preliminary response to the Australian Government's proposals', 2007. Accessed at: http://www.nit.com.au/downloads/files/Download_136.pdf.

- Coordinate policy, program and service delivery across government departments and between local, state and Federal governments; and
- Promote a community development approach to social and economic development and service delivery.

The way forward

Reforms to existing NTER measures

ANTaR endorses the recommendations of Aboriginal Peak Organisations of the Northern Territory (APO NT) in its Issues Paper, 'The Future of the Northern Territory Intervention' which identifies changes required to ensure that NTER measures are 'effective, appropriately targeted and non-discriminatory.' We also refer the Government to previous recommendations made in ANTaR's submissions on the NTER legislative amendments and income management.[2]

We echo the 'deep concern' expressed by APO NT that 'without urgent changes, the NT Intervention will fail to achieve its objectives and will represent both a lost opportunity and a significant policy failure.'[3]

Of particular importance, ANTaR supports:
a) amendments to the current income management scheme to ensure it is racially non-discriminatory, driven and applied voluntarily by communities, targeted to need and complemented by case management;
b) resources for communities to develop local community solutions to the problems of alcohol misuse;
c) The cancellation of five year leases or, failing that, an amendment to the *Northern Territory National Emergency Response Act* ('NTNER') to ensure that the *Racial Discrimination Act* ('RDA') prevails over section 31 to the extent of any inconsistency (thereby making lease provisions subject to the RDA); and
d) The withdrawal of Business Area Management powers.

A more detailed discussion of the proposals contained in the *Stronger Futures* discussion paper, along with broader recommendations to support community development in the NT, is contained in the last section of this paper.

School attendance and education achievement

Stronger Futures suggests a number of possible future directions. Amongst other things, proposals are directed towards improving links between early childhood and primary education, improving the quality of early childhood services and providing additional support in classrooms for students with special needs. ANTaR encourages the Government to engage communities in meaningful consultations to give further shape to these proposals and ensure they are targeted and adapted to the needs of specific communities. As part of this process, the recommendations made by the Australian

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[2] ANTaR, Submission to Inquiry into NTER Legislation Amendments, including Welfare Reform and Reinstatement of the Racial Discrimination Act' and Submission on Draft Policy Outlines for New Model of Income Management, both available on the ANTaR website at: http://www.antar.org.au/issues_and_campaigns/nt_intervention.
[3] APO NT, 'The future of the Northern Territory "Intervention" – Issues Paper', November 2010.

Human Rights Commission on the draft National Indigenous Education Plan should be taken into account. We particularly support the proposal to increase the number of teachers with English as a Second Language ("ESL") training. However, in addition to increased numbers of ESL-trained teachers is the need to provide for properly resourced bi-lingual education in communities that opt for such an approach. Bi-lingual education is an evidenced based teaching method that can achieve strong educational outcomes including in relation to competency in English.

Fundamentally, Government must re-think its sanctions-based approach to improving school attendance and address the education infrastructure gaps in remote communities. Major investment in education infrastructure and additional teachers must be a key plank in the next stage of the Government's remote community strategy. In addition, the focus must be on improved liaison between schools and communities (for example, through better engagement with Elders); greater engagement with Aboriginal teachers and teacher aides and an education curriculum that appropriately incorporates Aboriginal perspectives.[4] Essentially, a successful approach is not based purely on "getting tough on parents". Rather it must look to promote self-esteem and confidence amongst Aboriginal children, within a culturally sensitive learning environment, and with strong levels of engagement with the local Aboriginal communities from which students are drawn.

Economic development and employment

ANTaR supports the creation of a new community employment and enterprise scheme for regional and remote Australia as outlined by APO NT in their 'Funding the jobs gap' paper. We also urge the Government to explore options to increase capital and investment in remote communities, in partnership with communities, including exploring the potential benefits and risks of social impact bonds.

Tackling alcohol abuse

ANTaR is encouraged by the commitments expressed by the Government in *Stronger Futures* to work in partnership with communities to develop local solutions to the problem of alcohol abuse, including addressing the underlying causes of alcohol abuse.

The effectiveness of the Government's response will now depend on the extent to which it adheres to these principles and the resources available to support communities in developing and implementing their own plans and addressing service gaps. The Government's response must focus not only on the misuse of alcohol, but also other drug problems in communities.

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[4] See Larissa Behrendt, 2008, 'Rethinking Indigenous policy', *The Age*, 25 August 2008.

Importantly, the next stage of the Government's response must involve increased and ongoing funding (well beyond 2012) to expand access to alcohol and drug services, integrated with primary health care services in a holistic care model. In addition, Government must support and resource remote communities to develop their own alcohol management plans to put communities back in the driving seat of alcohol management. Finally, the Government should adopt a range of effective supply, demand and harm reduction strategies, as recommended by the National Indigenous Drug and Alcohol Council and key NT peak organisations, as detailed below.

Community safety and the protection of children

ANTaR advocates a justice reinvestment framework within which funding can be directed towards early intervention and diversionary initiatives to reduce the Aboriginal prison population. Within this framework, we advocate:

- Ongoing support for effective community safety initiatives, including night patrols;
- More support and resources to community-directed law and justice mechanisms;
- Programs and education to promote better understanding of Aboriginal culture among police, and a willingness to adopt community approaches to policing;
- Enable Aboriginal communities to play a meaningful role in community safety and foster constructive partnerships with key stakeholders in the mainstream justice system.

Health

Stronger Futures states the Government's support for the 'continued expansion and reform of primary health care with a focus on regional, community-controlled health services'.[5] It suggests some possible additional initiatives which ANTaR would strongly support, including:

- More alcohol and other drug treatment services;
- Better support for mental health and care for people with severe and debilitating mental illness (ANTaR strongly supports service delivery integrated with primary care through local community-controlled health services) ;
- Improved specialist and allied health care services for children;
- Improved therapeutic services for children who have been victims of child abuse.

Obviously all of these measures should be designed and implemented in partnership with Aboriginal communities and with a focus on expanding the Aboriginal health workforce.

In addition to these proposals, ANTaR supports the recommendations of APO NT in its recent Response to *Stronger Futures.* In particular, we wish to highlight the need to continue current primary health care reforms under the coordination of the NT Aboriginal Health Forum.[6]

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[5] Stronger Futures at 19.
[6] Aboriginal Peak Organisations of the Northern Territory, Response to *Stronger Futures*, August 2011.

Food security

ANTaR is encouraged by the Government's stated desire to support local community ownership and its acknowledgment of the disempowering effects of significant government involvement and control.

We encourage the Government to think more broadly about the policy levers it can use to increase food security. For example, the 2010 Senate Select Committee on Regional and Remote Communities report recommended that the Council of Australian Governments (COAG) explore the potential for 'self-sustaining small scale agriculture, permaculture or market gardening 'to improve access to nutritious food in remote communities.[7] We also support the Central Land Council's (CLC) recommendations to the 2009 Senate Inquiry into community stories in remote Aboriginal and Torres Strait Islander communities. In particular, that the Australian Government consider:

- Tax subsidies on fresh food for remote consumers;
- Transport subsidies for fresh food and other perishable items to remote areas such as the Canadian Food Mail Program; and
- Supporting systems that allow Indigenous families to access a standard health food basket at a cost of less than 25% of the available income.[8]

Housing

ANTaR welcomes the Government's consideration of a possible expansion in the role of Aboriginal community housing providers in the NT. As noted above, recent reforms have severely undermined the Aboriginal community housing sector, with the loss of two-thirds of the Indigenous Community Housing Organisations (ICHO) in the NT since 2009.

Although some progress has been made towards addressing housing need through the National Partnership Agreement on Remote Indigenous Housing, only a limited number of communities are currently scheduled to receive new housing and homeland communities have been excluded from any further new housing. As APO NT highlighted in its recent response to *Stronger Futures,* current housing funding extends only to 2013 and targets a small number of locations through the 'priority communities' model.[9] ANTaR seeks a bipartisan commitment to sustained investment in NT communities to meet housing needs, recognising that needs, if not met, will grow even more acute as the Aboriginal population grows. There is also a critical need for ongoing funding for the maintenance of existing housing stock. Without such funding, the deterioration in housing stock will present health and safety risks to residents and result in capital depreciation.

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[7] Senate Select Committee on Regional and Remote Communities, Fourth Report 2010, May 2010 at 13.
[8] Central Land Council, 2009, Submission to the inquiry into community stories in remote Aboriginal and Torres Strait Islander communities at pg 1. Accessed at http://www.aph.gov.au/house/committee/atsia/communitystores/subs/Sub0057.pdf, 17 August 2011.
[9] APO NT, 2011 at 37.

We also support APO NT's housing and tenure proposals, in particular for the Commonwealth Government to:

- Pay 'fair rent' for 5 year leases and just terms compensation;
- Work with NT land councils to transition from compulsory to voluntary leasing arrangements;
- Revisit its secure tenure policy to respect Aboriginal property rights and decision-making processes;
- Reset its housing policy strategy with the objective of creating a diverse NT housing sector including public and Aboriginal housing providers and exploring leasing arrangements to facilitate an increase in home ownership with NT land councils.

Finally, in recognition of the housing implications of homelands reforms, ANTaR also supports calls for the review of the Working Futures policy and development of future homelands policy which ensures the active participation of representative leaders from homeland communities.

Governance

ANTaR recommends:

- The Government support and invest in needs-based, community-controlled governance models;
- Governance models be rooted in the values and aspirations of individual communities;
- Government commit sufficient funding and resources, and appropriate training and ongoing support, to develop local capacity and ensure long-term sustainable development;
- Government acknowledge and build on existing successful community leadership structures;
- Government urgently increase and strengthen community participation and engagement with government both on the ground and within policy development processes.

Introduction

This paper is a response to the release of the Government's *Stronger Futures* discussion paper on the future of the NTER. However, in arguing for the development of a broad, long-term plan for NT communities based on community development principles, it extends beyond the scope of that discussion paper. In doing so, the paper builds on ANTaR's previous publication, *A Better Way: Success stories in Community Control in the Northern Territory,* which profiled effective and innovative Aboriginal community organisations and enterprises.

The timing is now critical to plan the transition from the 'emergency response' to a more sustainable approach to the issues facing Aboriginal communities in the NT. The paper outlines the current policy settings affecting NT Aboriginal communities, including the NTER, 'Closing the Gap', local shire reforms, Indigenous housing reforms as well as broader systemic constraints to community development arising from funding cycles and conditions.

Informed by the failures of the existing policy settings, the paper argues for an alternative framework ('A Better Way') to create safe, healthy and sustainable communities through a community development approach. In making the case for such an approach, the paper draws on lessons from international development and the Harvard Project to highlight the connection between governance, empowerment, community development and economic development. Key principles which underpin a community development approach are then identified based on these lessons and the United Nations Declaration on the Rights of Indigenous Peoples, endorsed by the Australian Government. The potential of a community development approach to create social, economic and cultural benefits in NT communities is then explored. Finally, the paper analyses the directions outlined in the Government's *Stronger Futures* paper against community development principles. It makes a series of recommendations for a longer-term community development future for NT remote communities, drawing on the work and recommendations of a range of Aboriginal organisations and research bodies.

'Stronger Futures in the Northern Territory'

The Federal Government released its *Stronger Futures* discussion paper on 22 June 2011 and announced the beginning of a six week consultation period with NT communities on the future of the NTER.

In her foreword, the Minister for Indigenous Affairs states that the views of people living in the NT will be 'at the centre of shaping what we do next.' ANTaR welcomes the Government's stated commitment to partner with Aboriginal people in planning for the next stage. We also note the Government's acknowledgment that trust and community support are crucial to the success of future programs and policy initiatives in the NT.

Importantly, the Federal Government has recognised the need for sustained funding and support for NT communities into the future, but has not at this stage committed funding over the medium-long term. This is critical to the future of NT communities and must be a key outcome of the current planning process.

However, while intended to signal a very different approach from the top-down history of the NTER, concerns have been raised about the adequacy of the current consultation process, in particular, the short time-frame and notice periods and accessibility of consultation information and materials.

ANTaR is concerned that these factors may impede the ability of Aboriginal people in affected communities to participate in an informed and meaningful way in the consultation process. While the Minister has indicated that this is a starting point of consultations, we would welcome further information about what else is planned.

The Government has indicated that the next stage of its involvement in NT communities will focus on three key issues: education, employment and alcohol. ANTaR is concerned that housing and other essential infrastructure are not designated priorities and seeks assurances from the Government that it has a long-term commitment to sustained funding for these programs.

Specific proposals contained in *Stronger Futures* are discussed in the final section of the paper, 'Stronger Futures: A community development analysis'.

Current policy settings

> 'A key theme … is the challenging reality that good intentions in Indigenous affairs do not translate easily into good policy, and that the risk of unintended consequences in this domain is often extremely high.'[10]

> 'On cultural grounds alone, as much as for reasons of geography and scale, arrangements for service delivery and approaches to engagement may need to vary widely from community to community and from location to location.'[11]

The policy environment affecting NT communities has been extremely fluid over the last few years with communities and organisations having to adjust to major and complex changes in a short period of time. Not least of these were the myriad changes heralded by the NTER. However, the complex and rapid nature of the NTER reforms has been compounded by parallel reforms to housing, the Community Development Employment Projects (CDEP), remote service delivery, homelands and local government structures.

While the current policy context and political environment presents some clear opportunities, in particular the Federal bipartisan consensus on the need for action to address Aboriginal disadvantage in the NT, recent changes have been bewildering in their pace and complexity. The relationship between different reforms and their effects is at this stage little understood. However, reduced control at the community level and increased centralisation of decision-making have been common features of most recent policy changes.

This paper calls on governments to build on existing knowledge of what works in Aboriginal communities, based on sound and independent evidence, and walk with communities in planning for the future.

The trends over the last decade towards mutual obligation and 'personal' or 'shared' responsibility has not been matched by a genuine attempt to build capacity to enable communities to take more responsibility and exercise more control over the services and programs in their communities. As the CLC has noted, even prior to the NTER, government rhetoric about mutual obligation and shared responsibility sat uneasily with a continuation of top-down program and project delivery, often outsourced to under-resourced organisations. This left 'governments disengaged from communities and lacking the capacity for project/program implementation'.[12] The NTER took this approach further.

> 'Together these changes have created an environment of confusion, mistrust and further disempowerment and marginalisation of Aboriginal people in Central Australia'.[13]

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[10] Department of Finance and Deregulation, 2010, *Strategic Review of Indigenous Expenditure: Report to the Australian Government*, Commonwealth of Australia at 40.
[11] Department of Finance and Deregulation, 2010 at 47.
[12] Central Land Council , 2009, 'The Central Land Council Community Development Framework' at 8. (Central Land Council, 2009b).
[13] Ibid.

Government and media focus has largely been on individual responsibility, as evidenced most clearly by compulsory income management. This was a strong theme in the Prime Minister's 2011 'Closing the Gap' address to Parliament in which she said:

> '…I see Closing the Gap as a call for changes in behaviour. A call to every person, to every family, to every community. To take care of your children. To take a job when you find one. To create a safe environment. To send your kids to school, pay your rent, save up for a home. To respect good social norms and to respect the law. And to reach out to other Australians'.[14]

The imposition of 'individual responsibility', often with limited support, reflects an imbalance in current policy settings. This imbalance is likely to undermine the effectiveness of measures, like income management, intended to foster self-reliance. As the former Social Justice Commissioner, Tom Calma, reflected in relation to the NTER:

> 'I believe that individuals and communities should take responsibility. However, I also recognise that responsibility is a learned behaviour; that it must be nurtured and developed. Responsibility is rarely achieved by being imposed.'[15]

This section provides an overview of key current policies affecting NT Aboriginal communities. It considers the individual and cumulative effects of these policy changes and concludes that recent reforms have undermined community capacity and created obstacles to community development which must be addressed in the current policy planning process. Key policies discussed below include:

1. The Northern Territory Emergency Response (and 'Closing the Gap in the NT');
2. The Remote Service Delivery National Partnership;
3. The Northern Territory Government's Working Future policy framework;
4. CDEP Reforms;
5. Housing Reforms; and
6. Local Government reforms.

1. The Northern Territory Emergency Response

The Northern Territory Emergency Response (NTER), announced on 21 June 2007 as a response to the *Little Children are Sacred* report, comprised a range of short-medium term measures including (among others):

- Compulsory income management;
- Compulsory leases;
- Child health checks;
- Expanded police investigative powers;

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[14] Prime Minister Julia Gillard, Closing the Gap Address to the House of Representatives, 'The work will go on', 9 February 2011, Accessed at: http://www.pm.gov.au/press-office/work-will-go-speech-house-representatives, 1 March 2011.
[15] Tom Calma, 2007, 'Tackling Child Abuse and Inequality', in Jon Altman and Melinda Hickson, *Coercive Reconciliation* – Stabilise, Normalise, Exit Aboriginal Australia, Arena Publications at 275.

- Increased police presence in communities;
- Expanded Government management powers over communities and organisations;
- Bans on alcohol and pornography (and associated signage).

Much has been written about the design, implementation, process and effects of the NTER. This paper does not seek to provide a comprehensive overview of NTER measures nor an extensive analysis of their effects – often difficult to determine due to a lack of baseline and other data.

However, a number of key points can be drawn from the body of research, submissions and advocacy papers, media statements and the few empirical research papers. These conclusions inform the arguments throughout the rest of the paper for a community development approach to the challenges facing NT communities.

a. The NTER has delivered necessary additional resources into highly disadvantaged communities. Despite this, funding has not come close to meeting community needs, nor been administered effectively or efficiently.

The NTER has provided a framework for the delivery of substantial additional funding for infrastructure and services to NT remote communities. It has also focused national attention and government action on some of Australia's most disadvantaged communities.

Though not without problems, Government funding has increased access to some basic services and housing through:

- Additional teachers and police in communities[16];
- Expanded night patrol services and additional crisis accommodation[17];
- Health checks for children and additional health workers;
- New crèches and playgroups;
- Drug and alcohol treatment workers; and
- Construction of some new houses and housing upgrades.[18]

However, serious questions have been asked about the adequacy of services provided and the effectiveness and efficiency of program administration.

b. The NTER has alienated many Aboriginal communities and organisations due to its top-down, coercive and non-consultative approach.

In her introduction to *Stronger Futures*, the Minister acknowledges that the way the NTER was introduced 'without consultation, has caused ongoing anger, fear and distrust among Indigenous people and communities.' The Leader of the Opposition, Tony

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[16] Stronger Futures reports that 62 additional police officers are being deployed, mostly in remote communities, and there is now a police presence in 18 communities which did not previously have one. Note the Themis study on the mixed impacts of these police in communities.
[17] Stronger Futures at 5.
[18] Government reports 300 new houses and 1400 upgrades. See Stronger Futures at 1.

Abbott, has also recently acknowledged that the former Howard government failed to consult Indigenous leaders adequately before launching the original emergency response and that the next stage needed to be more consultative.[19] This was also one of the strongest findings of the NTER Review, commissioned by the Government in 2008.

In his recent Social Justice Report, the Aboriginal and Torres Strait Islander Commissioner described the relationship between Indigenous communities and governments at all levels as 'characterised by a lack of trust'. Specifically, he highlighted the role of the NTER in damaging this relationship, having 'triggered our collective memories of past injustices faced by our peoples, communities and families.'[20]

    c. Racially discriminatory aspects of the NTER remain and have not been adequately addressed by Government. The reality and perception of ongoing racial discrimination continues to undermine the NTER.

'The issue of discrimination is not a matter of ideology, legal technicality, or academic concern. It goes to the heart of why much of the Intervention is bound to fail unless it is significantly recast. Top-down policies that single out particular groups without working with them to find solutions, remove both the opportunities and incentives for people in those groups to take responsibility for themselves and their communities'.[21]

In its *Stronger Futures* paper, the Government states that 'all future actions taken by the Government will comply with the Racial Discrimination Act, either because they are non-discriminatory or because they are special measures.' However, this undertaking seems to be premised on a narrow definition of discrimination (largely limited to direct discrimination) and an intention to ignore the requirement that consent must be obtained to any special measures. This is consistent with the approach the Government took to compliance with the RDA in its 2010 legislative amendments, as a result of which a number of NTER measures arguably continue to be racially discriminatory (either directly or indirectly) including:

- the income management measures which impact disproportionately and unreasonably on Aboriginal people;
- alcohol restrictions;
- prohibited materials provisions;
- law enforcement powers; and
- compulsory five-year leases acquired under the NTER legislation.[22]

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[19] Katharine Murphy, 'Second intervention in NT would consult: Abbott', *The Age*, April 29 2011. Accessed at: http://www.theage.com.au/national/second-intervention-in-nt-would-consult-abbott-20110428-1dywj.html, 29 August 2011.
[20] Aboriginal and Torres Strait Islander Social Justice Commissioner, 2010, *Social Justice Report 2010,* Report No. 1/2011 at 19.
[21] APO NT, 2010 at 3.
[22] See submissions to the March 2010 Inquiry by the Senate Community Affairs Committee into the changes to the NTER legislation by the Australian Human Right Commission (available at http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub76.pdf), the Central Land Council (available at http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub61.pdf) and the Law Council of Australia (available at

This legal situation arises due to the Government's classification of a number of NTER measures as 'special measures' without the necessary community consent and the absence of a clause which would ensure that the RDA prevails over any inconsistent provisions in the later NTER legislation.

The new income management scheme, which currently applies to Aboriginal and non-Indigenous social security recipients across the NT - with a view to a national roll-out - still fails to meet the non-discriminatory test because of the disproportionate impact it will have on Aboriginal people. This means that the measure is indirectly discriminatory unless it can be shown to be reasonable. ANTaR shares the concerns of the Aboriginal and Torres Strait Islander Legal Services (ATSILS) and the Aboriginal Peak Organisations of the NT that the current scheme does not meet the reasonableness test "because it lacks an evidence base, does not address the causes of welfare dependency and is not sufficiently targeted to minimise its disproportionate impact upon Aboriginal people."[23]

d. Key findings of NT reviews and inquiries have been ignored by Governments, including those in the original *Little Children are Sacred Report,* the NTER Review report and the 2009 Government consultation report on changes to the NTER.

The first recommendation of the *Little Children are Sacred Report* specifically refers to:

> 'the critical importance of governments committing to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities, whether these be in remote, regional or urban settings'.[24]

Despite this broadly supported principle, the Government has repeatedly failed to adequately consult Aboriginal people. Between June and August 2009, consultations on the future of the NTER were conducted with Aboriginal people in the NT. However, rather than an open consultation process with scope for Aboriginal people to advance reform proposals developed by communities, the Government consulted on a narrow range of questions and options. Despite significant improvements in Government consultation processes, a range of concerns have been expressed about the current consultation process, as noted above.

Key recommendations from the NTER Review Board Report and the 2009 community consultation themes have also been ignored by Government, particularly those related to income management. For example, the NTER Review Board recommended in 2008 that the current blanket application of compulsory income management should cease, to be replaced with a voluntary scheme and limited compulsory income management applied on the basis of child protection, school enrolment and attendance, and other relevant

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http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub83.pdf).
[23] APO NT, 2010 at 4.
[24] Anderson, Pat and Wild, Rex QC, 2007, *Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse* ('The Little Children are Sacred Report') at 21.

behavioural triggers. However this, along with many other specific recommendations that formed the basis of the report's broad proposals, was ignored.

e. The Government's 2009 consultations, though extensive, were not open or transparent nor designed to elicit alternative approaches to community problems. They have therefore not been regarded as genuine or legitimate by many organisations and communities.

The 2009 community consultation process, though extensive in scale, was procedurally flawed and failed to adequately inform or allow for considered discussion by the affected communities. There is no evidence that the Government's process achieved the standard of 'free, prior informed consent' that is one of the core requirements of a 'special measure'. It is imperative that future Government decisions are genuinely shaped and informed by the feedback received from communities.

f. The available evidence on the effects of various NTER measures has been of poor quality and often inconclusive. Despite Government claims to the contrary, there is no clear evidence base to support some of the more controversial measures, including income management.

The Government has made a range of claims about the positive impacts of current NTER policies – particularly income management - but has relied on inconclusive evidence of poor quality. This has meant that the current evidence base is highly contested by key stakeholders. ANTaR joins the chorus of calls for independent and robust evaluation and research into the effects of current measures.

No policy has been more contested than income management. The Government has claimed that a range of benefits have flowed from income management, including children being better fed and clothed[25] and more money being available to spend on school uniforms and books.[26] However, the quality of the evidence relied on by the Government has been questioned by many researchers and advocates, and contrary evidence produced which shows either negligible or negative impacts. For example, a recent report on women's experiences of income management found that 85% of women had not changed their purchasing patters under income management,[27] while a recent Australian Law Reform Commission report into family violence questioned whether it was an appropriate response.[28]

In the recent *Stronger Futures* discussion paper, the Government notes that as at 22 April 2011, there were 16 796 people on the new model of income management in the NT and, of those people who were eligible to leave compulsory income management

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[25] Stronger Futures at 1.

[26] Ibid at 10.

[27] Equality Rights Alliance, Women's *Experience of Income Management in the Northern Territory*, July 2011 at 21, accessed at: http://www.equalityrightsalliance.org.au/sites/equalityrightsalliance.org.au/files/docs/readings/income_management_report_v1-4_0.pdf, 25 August 2011.

[28] Australian Law Reform Commission, *Family Violence – Commonwealth Laws,* Discussion Paper 76, August 2011at 408.

after the new scheme was introduced, some 55 per cent chose to sign up for Voluntary Income Management (VIM).[29] Without further information, including what information and alternatives were provided to people, it is impossible to draw any firm conclusions from the rate of VIM take up.

The available evidence does not support the use of income management as a blanket, first resort measure for broad categories of income support recipients. We reiterate the point made by APO NT and others, that:

> 'Subjecting people to income management by virtue of the fact that they have been in receipt of Centrelink payments for a prescribed period of time does not speak to their ability to manage money and meet their needs without Government intervention'.[30]

The Cape York Welfare Reform trial, highlighted as an example of an effective income management trial by the Government, has in fact applied income management to only a small proportion of welfare recipients in the Cape trial communities, as a last resort compliance measure. Further, Government claims that income management has been broadly supported by Aboriginal women in the NT have also been questioned with the recent release of a report on women's experiences of income management which found that 80% did not like using the Basics Card and wanted to stop using it immediately.[31] Although the study is 'limited qualitative study of accessible urban groups' of women, it certainly indicates the diversity of views on the impact of income management amongst Aboriginal women and suggests the need for further research into the experience of women in remote communities.

The Government should not ignore the deep well of resentment that policies such as income management have generated, which will continue to undermine the Government's efforts at 'resetting the relationship'. If income management has a legitimate role then it is as one of a suite of options directed at helping individuals and families to address dysfunctional behaviours. Such a model would be based on intensive case management linked to appropriate evidence-based 'triggers' applied via a process that is both transparent and open to administrative appeal.

Questions have also been raised about the available evidence on the impacts of the child health checks, the increased police presence in communities[32] and the links between leasing arrangements and the delivery of housing and services in remote communities.

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[29] Stronger Futures at 7.
[30] APO NT, 2010 at 5.
[31] Equality Rights Alliance, 2011 at 29.
[32] James Pilkington, 2009, *Aboriginal Communities and the Police's Taskforce Themis: Case studies in remote Aboriginal community policing in the Northern Territory*, CAALAS and NAAJA.

g. The serious challenges facing NT communities remain acute and ongoing, sustained action is needed by all levels of Government to build stronger and safer communities.

The recent Senate Select Committee on Regional and Remote Indigenous Communities report found that 'regional and remote Indigenous communities face a continuing crisis in health, education and living standards.' [33]

The *Stronger Futures* discussion paper reiterates the disparities between Aboriginal communities and the wider NT and Australian populations:

• average **life expectancy** for Aboriginal males and females in the NT is the lowest of all states and territories;

• the NT has the largest gap in **infant mortality** relative to the non-Indigenous population, with a mortality rate for Aboriginal children aged 0–4 years three times that of non-Indigenous children;

• in education, the NT has very low levels of **literacy and numeracy** among Aboriginal students and the lowest rates of school attendance;

• the NT has the largest gap in **employment** rates. Excluding CDEP, Aboriginal people of working age are more than 2.5 times less likely to be employed than non-Indigenous people of working age;

• the rates of **alcohol-related deaths** amongst Aboriginal people in the NT are nine to ten times higher than the total national average;

• Aboriginal children are nearly seven times more likely to be the subject of child **protection** substantiation than non-Indigenous children.

Closing the Gap in the Northern Territory

The Federal Labor Government's *Closing the Gap in the Northern Territory* strategy which replaced the NTER was intended to signify a shift from 'emergency response' to sustainable development strategy. However, despite the shift in language, the strategy did not depart significantly from the previous NTER approach and most organisations and media have continued to describe the measures collectively as the NTER or 'Intervention'. It is vital that the Government abandon the language and style of intervention in the next stage of its response to NT Aboriginal communities.

The COAG *Closing the Gap* initiative has provided a framework for governments to commit to broad Indigenous health, wellbeing and economic development targets, and substantial investment has been delivered through this initiative. While both the targets and the increased investment are very positive, concern has been expressed about the

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[33] Senate Select Committee on Regional and Remote Indigenous Communities, Final Report 2010, September 2010b at 7.

implementation priorities adopted by COAG and the lack of Aboriginal input or consent in developing the Closing the Gap framework.[34] The 2010 Senate Committee report on remote Indigenous communities highlighted the need for this initiative to be complemented by a 'long term plan for community development'. It is time for a new language to be reflected by a new approach that reflects community development principles.

Reforms to existing NTER measures

ANTaR endorses the recommendations of APO NT in its Issues Paper, 'The Future of the Northern Territory Intervention' which identifies changes required to ensure that NTER measures are 'effective, appropriately targeted and non-discriminatory.' We also refer the Government to previous recommendations made in ANTaR's submissions on the NTER legislative amendments and income management.[35]

We echo the 'deep concern' expressed by APO NT that "without urgent changes, the NT Intervention will fail to achieve its objectives and will represent both a lost opportunity and a significant policy failure."[36]

Of particular importance, ANTaR supports:
- amendments to the current income management scheme to ensure it is racially non-discriminatory, driven and applied voluntarily by communities, targeted to need and complemented by case management;
- resources for communities to develop local community solutions to the problems of alcohol misuse;
- The cancellation of five year leases or, failing that, an amendment to the NTNER ACT to ensure that the RDA prevails over section 31 to the extent of any inconsistency (thereby making lease provisions subject to the RDA); and
- The withdrawal of Business Area Management powers which are draconian and unnecessary.

A more detailed discussion of the proposals contained in the *Stronger Futures* discussion paper, along with broader recommendations to support community development in the NT, is contained in the last section of the paper.

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[34] APO NT 2011, 2011, Response to Stronger Futures.
[35] ANTaR, Submission to Inquiry into NTER Legislation Amendments, including Welfare Reform and Reinstatement of the Racial Discrimination Act' and Submission on Draft Policy Outlines for New Model of Income Management, both available on the ANTaR website at: http://www.antar.org.au/issues_and_campaigns/nt_intervention.
[36] APO NT 2010.

2. Remote Service Delivery National Partnership

> 'The NTER is increasingly being integrated into the [Remote Service Delivery (RSD)] strategy with 15 of the NTER prescribed communities being classified as priority communities under the RSD'.[37]

The National Partnership Agreement on Remote Service Delivery ('the Agreement') was agreed under the National Indigenous Reform Agreement (NIRA) by the Commonwealth, a number of state governments and the NT Government in January 2009. Significantly, the Agreement was negotiated between the Commonwealth, state and territory governments, without consultation or negotiation with Aboriginal people likely to be affected by the Agreement.

Priority communities

The Agreement was supported by $160 million in funds, with two-thirds contributed by the Commonwealth and one-third by the Territory Government.[38] It prioritises funding to identified 'priority remote communities', with a range of broad objectives, including:

- to improve Indigenous families' access to a range of government services;
- to raise these services to the standard provided to other Australians living in communities of similar size and location;
- to improve governance and leadership within the communities, including among Indigenous community organisations;
- to achieve better coordinated government services; and
- to increase economic and social participation wherever possible and promote personal responsibility and positive behaviours.

The Government also appointed a Coordinator General for Remote Indigenous Services to oversee the implementation of the agreement and its impact in progressing towards the 'Closing the Gap' targets. The Coordinator-General has an important role to play in monitoring implementation and progress under the Remote Service Delivery National Partnership and it is vital that his office receives the necessary support to enable it to gather essential information and community feedback. For this reason, ANTaR supports the recommendation of the Social Justice Commissioner that additional resourcing be provided to the Office of the Coordinator General to ensure its capacity to independently evaluate what is happening on the ground.

'Priority communities' identified in the NT are Angurugu, Galiwinku, Gapuwiyak, Gunbalanya, Hermannsburg, Lajamanu, Maningrida, Milingimbi, Nguiu, Ngukurr, Numbulwar, Wadeye, Yirrkala, Yuendumu and Umbakumba. These were the same communities identified for major works under the Strategic Indigenous Housing and Infrastructure Program (SIHIP). Priority communities were identified on the basis of a number of criteria, including:

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[37] Department of Finance and Deregulation, 2010 at 316.

[38] See the announcement from the Northern Territory Government, 2009, Media Release: 'A Working Future: Real Towns, Real Jobs, Real Opportunities' at:
http://newsroom.nt.gov.au/index.cfm?fuseaction=printRelease&ID=5584, 29 August 2011.

- significant concentration of population;
- anticipated demographic trends and pressures;
- potential for economic development and employment;
- pre-existing shortfalls in government investment in infrastructure and services; and
- potential to build on other significant investment already in progress or on community-based initiatives.

Baseline mapping in priority communities to provide an evidence base from which improvements can be measured is now complete.[39] Due to the importance of this information in informing policy planning, ANTaR encourages the Government to work with communities to agree on report content able to be made public.[40]

Single government interface

The other key plank of reform under the Agreement is the establishment of a 'single government interface'. In the NT, Government Business Managers (GBMs) were appointed to priority communities under the NTER along with Indigenous Engagement Officers (IEOs) and Regional Operation Centres. The GBMs are designed to be a key liaison and consultation point between governments and communities. The IEOs, being local Aboriginal people, are appointed to assist the GBMs in liaising with communities. In the NT, they are supported by a Regional Coordination Centre in Darwin. Concerns were flagged about the caliber of Australian Public Service (APS) officer being appointed to GBM positions in the Strategic Review report to Government, which noted that Government agencies were drawing from "a thin pool in trying to acquire adequately trained and experienced officers to fulfill these roles."[41]

Features of the Agreement which could support community development

One of the positive features of the remote service delivery agreement is its local focus, or 'place-based approach'. This has the potential to strengthen 'coordination efforts by requiring governments to ensure the usual program structures are more responsive to the specific needs of a particular place and facilitating community driven development.'[42]

Under the Agreement, Local Implementation Plans are the key mechanism through which local implementation strategies are negotiated and agreed with communities. They are also the 'key accountability tool for the partnership between governments and communities'.[43] Importantly, the Coordinator-General reminds us that the Local Implementation Plan is 'not the end point, but requires active management to ensure the commitments are delivered.'[44] The Coordinator-General's most recent report indicates that Local Implementation Plans (LIPs) have now been agreed by all NT priority communities, with four remain to be officially signed, and that implementation of agreed

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[39] Coordinator General for Remote Indigenous Communities, 2011, 'Six Monthly Report: September 2010-2011-March 2011.
[40] Ibid at 11.
[41] Department of Finance and Deregulation, 2010 at 358.
[42] Coordinator General for Remote Indigenous Communities, 2011 at 4.
[43] Ibid at 17.
[44] Ibid at 16.

actions has begun.[45] However, the LIP process has failed to adequately engage communities, as discussed below.

Another key focus in the Agreement is 'capacity building and leadership training in communities'. One of the outcomes of the Agreement is 'more highly developed capacity in Indigenous communities', to be achieved through the delivery of 'community leadership skills programs' (an Agreement output). The Agreement outlines a range of service delivery principles which are conducive to community development approaches, including the 'Indigenous engagement principle', in which 'engagement with Indigenous men, women and children and communities should be central to the design and delivery of programs and services' and the 'sustainability principle', which states that 'programs and services should be directed and resourced over an adequate period of time to meet the COAG targets.'

Features of the agreement likely to constrain community development

However, while some of the principles and reform directions set out in the Agreement could contribute to increasing the capacity of Aboriginal organisations and enabling sustainable community development, other aspects of the reforms are likely to impose significant constraints on community development. For example, the funding and service delivery priority given to communities with significant populations and those deemed 'more economically sustainable', to the exclusion of smaller communities (particularly homelands), along with changes to land tenure, will systematically deprive smaller communities of funding and service delivery improvements. It is not clear how much consideration has been given to the likely consequences of this policy. Further, while simplification of government service delivery and engagement through a 'single government interface' makes strategic sense, the implementation of this policy has been undermined by the caliber and skills of officers appointed to GBM roles. It is imperative that these officers are trained in community development approaches and have experience working in partnership with Aboriginal communities.

The potential of the Local Implementation Plans to engage communities in identifying their priorities and implementing solutions has also not been fully realised. The Coordinator-General noted in his most recent report that many of the plans are 'works in progress' or 'plans to plan' containing limited detail as they were rushed to meet the sign off deadline.[46] He also highlights the limits or parameters of the LIPs, which 'can only drive local action' and not address 'systemic challenges' including 'land reform, the capacity of governments and service providers and flexibility in funding and implementation of programs at the local level'.[47] Another key concern in relation to the LIP process is that the primary mechanism for local participation, the Local Reference Groups, are informally convened bodies with no decision-making powers and which are not necessarily representative of communities or inclusive of local Aboriginal organisations. ANTaR is very concerned that the current process is not conducive to the development of community development strategies which reflect local Aboriginal community priorities and which are integrated with other policy planning processes.

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[45] Ibid at 15.
[46] Ibid at 17.
[47] Ibid at 8.

3. Northern Territory Government's Working Future policy framework and the threat to homelands

Current NT and Federal Government policy settings threaten the future viability of homelands communities and have arguably 'deepen[ed] the challenges Aboriginal people face in remaining on their traditional lands'.[48]

Working Future is the NT Government's remote community policy framework, released in May 2009. It includes 6 key strategies which, in general terms, are designed to direct future investment to larger 'growth' towns and to limit resources to homelands and outstations. The Strategy also includes an emphasis on long-term government leases over land. Many organisations and communities have expressed serious concern about the homelands policy shift, predicting negative effects on more than 500 outstations or homelands, where thousands of Aboriginal people live on their traditional lands, as well as negative consequences for larger towns.

Homelands provide social, cultural, health and economic benefits to residents and enable Aboriginal people to live on their traditional lands.[49] These benefits have been highlighted in a range of reports and research studies.[50] ANTaR's report, *A Better Way: Success stories in community control in the Northern Territory,* published in 2010, showcases successful community development initiatives in a number of homelands and outstations, including the Layhnapuy Homelands Association in Yirrkala, the successful petrol sniffing program at Mt Theo and the Mapuru homeland community cooperative and school.[51] The homelands movement has spurred communities to develop their own resource agencies to provide infrastructure and support services and to ensure their viability. These have also proved to be pivotal in providing employment and enterprise development opportunities.

The NT Government's homelands policy is likely to have a range of social and economic effects. Chief among them will be the likely relocation of homeland residents to larger townships. The dislocation from traditional lands and relocation to towns in which resources may already be under strain will give rise to a number of problems:
- conflict between different communities within larger townships;
- reduced access to healthy and affordable food (as homelands residents living in towns will no longer be able to supplement their diet with bush foods); and the
- loss of cultural practices and traditional knowledge.

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[48] Amnesty International Australia, 2011, *The Land Holds Us – Aboriginal peoples' right to traditional homelands in the Northern Territory,* Amnesty International Australia at 8.
[49] Aboriginal and Torres Strait Islander Social Justice Commissioner, 2009, *Social Justice Report 2009*, Report No. 1/2010 at 107.
[50] Central Land Council (CLC), 2009, *Briefing Paper: Keeping Homelands Alive: Evidence that supports the continued resourcing of dispersed settlements.* (Central Land Council, 2009c) Also see footnotes on p 125 of Social Justice Report 2009.
[51] ANTaR, *A Better Way – Success stories in Aboriginal community control in the Northern Territory,* October 2010.

These effects must be considered in the context of the plethora of other reforms taking place in the NT which will directly affect homelands and outstations. In particular, reforms to housing (outlined below), as a result of which the Commonwealth ceased funding housing on homelands in July 2008, with NT government housing funding targeted to larger towns and providing only very limited resources to homelands. This is despite significant unmet need, a growing population and existing housing being left to deteriorate despite significant past investment.[52] Homelands also miss out on funding under the NIRA. As the recent Amnesty International Australia report, *The Land Holds Us,* highlighted, "Non-priority communities, including homelands, are being left behind."[53]

The interaction of different policy reform agendas is likely to have complex and unforeseen effects to which the NT and Federal Governments should give serious consideration.

ANTaR supports calls for the review of the Working Futures policy and development of future homelands policy which ensures the active participation of representative leaders from homeland communities.

4. CDEP Reforms

The Australian Government has introduced a range of reforms to CDEP in remote communities since 2009. The most significant change has been the replacement of CDEP wages with income support payments for all new CDEP participants (grandfathering arrangements are in place for existing recipients until July 2012). This has effectively replaced CDEP in remote communities with Work for the Dole programs. There has also been a reduction in program flexibility which has impacted on Aboriginal organisations which employ CDEP workers.

Although these changes have been supported by a jobs package, which allowed for the creation of around 2,000 jobs in government funded service delivery and the establishment of 400 new traineeships and 60 ranger positions, this falls far short of the need. The end result has been an emerging jobs gap and threats to the viability of otherwise successful community enterprises and projects in regional and remote communities. In 2010, about 3000 CDEP jobs had been lost and 2158 jobs filled under the Jobs Package. The most recent 'Future of Remote Participation' report shows that 85% of job seekers registered with Jobs Services Australia in remote communities are Aboriginal – unable to find work despite efforts to seek it.[54]

ANTaR supports the call by APO NT for the creation of a new employment and enterprises program which provides continued support for a range of productive activities in remote areas.[55] The program should provide a partial social security offset and be administered by community organisations as well as other appropriate

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[52] Greg Marks, 2008, *Submission 30* to Senate Select Committee on Regional and Remote Indigenous Communities at 6.
[53] Amnesty International, 2011 at 8.
[54] Australian Government. 2011. The Future of Remote Participation and Employment Servicing Arrangements, Discussion Paper at 7.
[55] For more information, see APO NT, 'Funding the Jobs Gap: A proposal for a new Community Employment and Enterprise Development Scheme (CEEDS) for regional and remote Indigenous Australia', December 2010b.

organisations (for example, outstation resource agencies, Shires and land councils). This should build on the success of CDEP in the creation of jobs, the delivery of services and the development of enterprise.

We note with interest the current Government review of remote participation and employment services and look forward to participating in further discussions about the future of CDEP as part of that process.

5. Housing reforms

Recent years have seen major reforms to Aboriginal housing in the NT as a result of Federal and NT Government policies. Broadly, reforms have sought to achieve the following objectives:
- The transfer of housing stock held by community housing organisations to Territory housing;
- The transfer of long-term leases over land on which community housing is located; and
- More rigid application of tenancy rules and regulations and rent collection.

Under the National Partnership Agreement on Remote Indigenous Housing, additional Commonwealth investment in Indigenous housing is contingent on state and territory governments having control of the land, through acquisition of a lease, for at least 40 years.[56] In the NT, this has required the negotiation of 40 year leases by Territory Housing, with Aboriginal occupiers formally becoming tenants of the public housing system. A Memorandum of Understanding (MOU) signed between the Federal and NT Governments makes the 'mainstreaming' policy intention and objective explicit. As at June 2011, the Government has negotiated 40 year leases with 9 communities and the town camp associations in Alice Springs.[57]

In the financial year ending 30 June 2011, 257 new houses were built in the NT and 1248 refurbished, against targets of 250 new houses and 1,000 refurbishments respectively.[58] However, the recent Senate Select Committee report suggested a further parliamentary inquiry into the effectiveness of government programs in providing housing in regional and remote Indigenous communities.

MOU between Federal and Northern Territory Governments

In September 2007, the Federal Government entered into a MOU with the NT Government on Indigenous Housing, Accommodation and Related Services. Although there was a change in Government at the Federal level only 3 months later, this agreement set the parameters for housing and infrastructure policy in the NT for the next three years (to 2010-11).

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[56] Council of Australian Governments (COAG), 2009, National Partnership on Remote Indigenous Housing.
[57] Stronger Futures at 5.
[58] See the announcement from The Hon Jenny Macklin MP, 2011, Media Release: 'Remote Indigenous Housing Targets exceeded'. Accessed at:
http://www.jennymacklin.fahcsia.gov.au/mediareleases/2011/pages/remote_indig_house_target_exceed_09082011.aspx, 29 August 2011.

The agreement committed the Federal Government to the provision of $793 million in Indigenous housing funding to the NT, on condition that the NT Government take over responsibility for the delivery of services to outstations and town camps, with the Federal Government to have no further responsibility for the delivery of Indigenous housing and municipal services in the NT from July 2008.

The agreement also required both Governments to use open and competitive procurement processes for new housing, repairs and upgrades and associated works.

Both governments agreed that the funding would 'facilitate the transition from Indigenous community-controlled housing to a public housing model'. This made explicit the shift away from community-control to government delivered housing services, a shift at odds with the broader national move to increase the capacity of the community housing sector and with the official endorsement by the Territory and Federal Government of community-controlled health services as the preferred health service delivery model in the NT.

Performance based contracts under the MOU must deliver in accordance with the principles outlined in the NT Government's Remote Housing Reform Framework (*A New Housing System for the Bush*) which requires Territory Government ownership of housing (with existing housing to be transferred to Territory Housing), leases established over properties, the application of residential tenancy law, priority waiting list for employed Indigenous people and the ability for residents to move to home ownership (among other principles).

The agreement also identifies priorities for additional funding, with main urban centres at the top of the list, and outstations and homelands as 'third order priorities', with the added condition that 'no Australian Government funding will be provided to construct housing on outstations/homelands'.

The Federal Government indicated that it sought to obtain 99 year leases over land in larger/strategically placed growth communities, with access to funds for all communities dependent on the transfer of housing to Territory Housing on completion of repairs and upgrades. The *Stronger Futures* paper reports that 80-99 year whole-of-township leases have been negotiated with 4 communities.[59]

The Territory Government expressed concerns in the MOU about the unmet need for infrastructure in some outstations, noting that the Commonwealth will consider the creation of 'real jobs' to replace CDEP positions providing municipal services in these areas.

Control over the administration of Aboriginal housing

Research conducted on local community views of shire reforms and related issues noted that, with housing responsibility transferred to Territory Housing, community residents were no longer engaged in decision making on housing, tenancy related issues or rent

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[59] Stronger Futures at 5.

models.[60] Indeed, it has been argued that one of the primary objectives of the leases was to increase central government control over decision-making in remote communities.[61] As Leon Terrill has argued, housing leases represent a form of tenure reform, in addition to housing reform, with serious governance implications.[62] The disempowerment of local Aboriginal communities and organisations as a result of housing reforms must be addressed in the next stage of the Government's remote communities strategy through a focus on capacity building.

6. Local government reforms

Local government reforms were announced in 2006 and implemented across the NT from 1 July 2008. The reforms have significantly changed governance arrangements in the NT, with some 59 local councils, the majority of which were remote Aboriginal local councils, replaced with 16 local councils (including five municipal and 11 shire councils).

In implementing the reforms, the NT Government had a number of objectives. The overriding objective was to rationalise governance and service delivery arrangements by concentrating administration in larger regional centres. This was a response to an identified 'crisis' in small and remote communities in which the governance and capacity of many Aboriginal organisations to meet growing expectations and demands had been questioned.[63] Other objectives included:

- To ensure local government coverage of the whole of the NT;
- To deliver services at the regional, rather than local level, intended to deliver 'better and more reliable' services;
- To strengthen leadership and governance in the local government sector.

From 1 July 2008, the new councils have had responsibility for service delivery.

While shire councils provide regional representation under the new model, local boards have been established in most remote communities to provide a reference group for the shire to consult with on issues affecting communities. Unlike the abolished community councils, local boards have advisory but not decision-making capacity or financial delegation.

Aboriginal organisations in the NT and human rights advocates have expressed a range of concerns about the reforms. These include the impact of the reforms on land rights and native title rights, the ability of remote communities to determine their priorities and be strongly represented within the new structures, protecting pre-existing community assets, ensuring adequate resourcing for service delivery, the appropriateness of shire

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[60]Central Land Council (CLC), 2010, *The governance role of local boards: A scoping study from six communities* at 52.

[61] Leon Terrill, *Indigenous land reform: what is the real aim of reforms?*, Native Title Conference 2010: People, Place, Power, accessed at: http://www.aiatsis.gov.au/ntru/conferencepapers.html, 23 September 2011.

[62] Ibid.

[63] Central Land Council (CLC), 2010 at 11.

boundaries and the impact of the removal of community councils on Aboriginal employment.[64]

Research conducted by the CLC between October and December 2009 shows that there is a high level of community concern about the reforms, and a general perception that the changes have reduced community capacity and control over decisions affecting communities.[65] According to the CLC's report, *The governance role of local boards: A scoping study from six communities*, residents frequently argued that the community had 'lost their voice', with local boards not seen 'as strong representatives or a legitimate body for the community'.[66] The CLC's report documents a number a more specific concerns about the new local board structure, including that:

- The selection process for membership was not well understood (7);
- The shires have been perceived to be unresponsive to community issues or requests (7);[67]
- Many local boards were either meeting irregularly or not at all (8);
- Boards are burdened by a high level of administrative structure, at odds with their advisory function (8);
- The list of issues which boards are able to discuss was seen as too restrictive – excluding, for example, housing, which is seen as a critical issue (9);
- Awareness of the reforms and their implications is fairly low and many people are unable to see a place for Aboriginal people in the new structures. (54)

Community members strongly expressed their sense of disempowerment, and highlighted the bewildering impacts of recent overlapping policy changes:

> 'At the moment there is the intervention. The shire came on top of that and completely bamboozled us, completely rammed us, threw us out. Destroyed everything we had. Took everything outside, our rights are gone with the wind'. (Yuendumu)[68]

Indeed, the CLC noted that the 'perceptions expressed through the local board meeting were so strongly and convincingly presented that they cannot be ignored.' The CLC report concluded:

> 'The local government reform (along with other policy shifts, such as the NT Emergency Response) has in fact withdrawn rather than strengthened local Indigenous decision making and in doing so, has been a core driver in the disengagement of people from their own community development priorities.'[69]

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[64] See Central Land Council (CLC), 2007, *Annual Report 2006-07* at 52-53; Northern Land Council, 2007, Media Release: 'Local Government Reform Timetable Unrealistic', 7 March 2007; and Aboriginal and Torres Strait Islander Social Justice Commissioner, *Native Title Report 2006*, Report No. 2/2007 at 63.
[65] Central Land Council (CLC), 2010.
[66] Central Land Council (CLC), 2010 at 7.
[67] See also Yu, Peter; Duncan, Marcia Ella and Gray, Bill, 2008, *Report of the NTER Review Board* at 55-56, where it was noted at the time of the reforms that 'This follows earlier concerns expressed in the NTER Review that *"if the nature of the local community boards, and representation on them, is externally imposed, it is unlikely to be successful and sustainable'.*
[68] Central Land Council (CLC), 2010 at 28.
[69] Central Land Council (CLC), 2010 at 55.

Summary: Systemic and policy constraints on Aboriginal capacity development in the Northern Territory

Seismic shifts have occurred in the policy environment in which NT Aboriginal community organisations operate. Organisations have been required to continually adjust to changing legal and policy settings, funding and contractual relationships without being authors in these changes or even consulted about them.

Research conducted by Mick Dodson identifies a number of systemic constraints to Aboriginal community development. Many of these constraints have been exacerbated by recent policy shifts, as discussed in this section. Identified constraints include:

- Lack of Aboriginal participation in the policy process
- Short-term funding cycles
- Variable land rights and limited resource rights
- Multiple layers of Government and bureaucracy and poorly coordinated policy and inefficient delivery
- Focus on 'Government in communities', not building community capacity
- Lack of Aboriginal political and representative organisations for key sectors
- Lack of financial capital and credit
- Infrastructure gaps and capital deterioration.[70]

Lack of Aboriginal participation in the policy process.

This is a recurring theme in relation to most recent policy developments affecting NT communities. The failure to consult has been widely acknowledged as a key flaw in the development and implementation of the original NTER. Aboriginal people have also been completely excluded from the negotiation of key inter-governmental agreements under COAG's *Closing the Gap* framework, which have determined the direction of the remote service delivery, housing, local government and CDEP reforms.

Ultimately, consultation – even when done well – is not enough. The Government must commit to partnership and negotiation, ensuring that Aboriginal people are participants in decision making and have a real stake in the decisions and their consequences.

Funding cycles and 'red tape'

> 'Community organisations are tied to the grant funding drip feed, overloaded with inappropriate program objectives and performance indicators, and onerous "upwards accountability" burdens.'[71]

> 'Critically, in our understandable focus on compliance and accountability we have a tendency to insist on paperwork of Himalayan grandeur. And to what end? I have

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[70] Dodson, Professor Mick and Smith, DE. 2003. 'Governance for sustainable development: Strategic issues and principles for Indigenous Australian Communities', *Discussion Paper No. 250/2003* at 6-8.
[71] Ibid at 7.

witnessed firsthand, in several Indigenous communities, how the mountains of red tape simply bury the limited administrative resources available at the local level'.[72]

The constraints imposed by funding cycles, requirements and conditions have been highlighted as a key issue by a range of reports and inquiries, including the:
- *Little Children are Sacred* Report,
- the Cooperative Research Centre for Aboriginal Health *Overburden Report*[73];
- the Senate Select Committee on Regional and Remote Indigenous Communities Report; and
- the recently released Strategic Review of Indigenous Expenditure Report.

The Senate Select Committee noted that 'burdensome and duplicative reporting requirements are affecting the ability of [community] organisations to effectively function'.[74] The Committee suggested that government departments review the manner in which they provide funding. It also emphasised the importance of reliable funding and medium-long term funding cycles. This is vital to provide security and stability for organisations and longer term job stability for those working in regional and remote Aboriginal communities. To address this issue, the Committee recommended that the Commonwealth commit to longer term program funding, indicating support for funding periods to be a minimum of 3-5 years, with commitments of 5-10 years being 'more effective and highly desirable'.[75] Significantly, the Committee noted the need for a bipartisan commitment to long-term funding cycles to avoid policy and funding fluctuations with changes in government.

The recent Strategic Review into Indigenous Expenditure Report made a strong case for broad-banding a range of current Indigenous funding programs due to the burden of red tape and the inflexibility associated with multiple funding programs. It suggested that the Department of Finance should work with other Federal Government agencies to explore opportunities for funding flexibility and longer-term funding cycles, noting that:

> 'Flexibility offers the opportunity to match services with local requirements and support the use of longer duration funding in appropriate circumstances, in ways which support continuity of program delivery and patient development of the capability of Indigenous organisations.'[76]

The remote service delivery flexible funding pool to facilitate implementation of the Local Implementation Plans is a move in the right direction and Government should ensure that it reviews funding guidelines regularly to ensure they are meeting the needs of communities, as suggested by the Strategic Review report.[77] However, broader recommendations for more flexible funding approaches have been to date ignored by governments. In his First Report, the Coordinator-General recommended that more

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[72] Dr Ken Henry, Secretary to the Treasury, *Addressing Extreme Disadvantage though Investment in Capability Development*, Canberra, 6 December 2007.
[73] Cooperative Research Centre for Aboriginal Health, *The Overburden Report: Contracting for Indigenous Health Services (short summary),* August 2009.
[74] Senate Select Committee on Regional and Remote Indigenous Communities, Final Report 2010, September 2010 at 9.
[75] Senate Select Committee on Regional and Remote Indigenous Communities, 2010b at 9 and 24 (recommendation 6).
[76] Department of Finance and Deregulation, 2010 at 31.
[77] Ibid at 41.

flexible funding approaches be developed to 'align service delivery and provide some opportunities to modify inputs, streamline reporting and reduce red tape', learning from successful UK place based initiatives. While COAG has agreed to establish an inter-jurisdictional working group on this issue, the Coordinator-General has criticised the general, non-specific nature of governments' response and called for more practical actions by the time of this next report.[78]

Variable land rights and limited resource rights

Nationally, variable land rights and limited resource rights, particularly under the *Native Title Act,* currently act as a constraint on economic development. Partly in response to this problem, legislation is currently before Parliament to recognise native title rights and interests of a commercial nature. ANTaR supports this proposed amendment to better enable native title holders to derive maximum economic benefit and opportunity from native title rights and interests.

While in some cases, native title rights enable holders to negotiate over development and to enter mining and other development agreements, land rights under the *Aboriginal Land Rights (Northern Territory) Act 1976* provide freehold title along with the ability to sub-lease.

The Government has claimed that Aboriginal communal title operates as a barrier to economic development in remote communities. On this premise, it has compulsory acquired leases over Aboriginal land under the NTER ostensibly for the purpose of delivering housing and infrastructure. In its response to *Stronger Futures,* APO NT recognises the 'value in providing certainty for investment and clarifying who is responsible for assets'.[79] However, it also makes the point that 'no evidence exists that economic development or even home ownership will necessarily flow from secure leasing alone'.[80] The Government's commitment in *Stronger Futures* to allowing five year leases to lapse in 2012 with the NTER sunset clause and seek voluntary leases in future is a welcome step in the right direction.[81]

While current tenure in remote Aboriginal communities in the NT need not be interpreted as an impediment to economic development or land ownership, alternative leasing arrangements should be explored to maximize the potential for investment and housing, infrastructure and service delivery in communities while ensuring Aboriginal community decision-making mechanisms.

ANTaR supports APO NT's call for an alternative community leasing model with Aboriginal community residents empowered to make decisions about the granting of leases and for leases to be for 40 years, rather than 80-99 years as previously sought by Government. We believe this model will facilitate economic development and home ownership without disenfranchising traditional owners.

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[78] Coordinator General for Remote Indigenous Communities, 2011 at 27.
[79] APO NT, 2011, Response to Stronger Futures at 33.
[80] APO NT, 2011, Response to Stronger Futures at 34.
[81] Stronger Futures at 22.

Multiple layers of government and bureaucracy, coordinated government policy and inefficient delivery

> 'In the Indigenous area, more than any other, there has been a huge gap between policy intent and policy execution, with numerous examples of well-intentioned policies and programs which have failed to produce their intended results because of serious flaws in implementation and delivery'.[82]

A broad stated objective of recent government remote service delivery reforms is the better coordination of government services. While this is encouraging, there is much work still to do, as is reflected in the most recent Coordinator General report.

As noted above, serious questions have been raised about the effectiveness and efficiency of program administration by governments in remote communities. The Government's SIHIP housing program has attracted particular criticism but concerns have also been raised about the implementation of various NTER policies and the CDEP reforms.

Building 'Government in communities' not building community capacity.

> 'Across the board there is very little emphasis on developing the capacity of community organisations, which is a key objective of the National Partnership'.[83]

The emphasis of recent policy reforms, particularly the remote service delivery national partnership agreement, is on increasing the presence of government in communities (what the CLC has described as 'building Government in communities'), through GBMs, 'local interfaces' and expanded Federal and NT Government powers over funding and program administration. There has been little focus on building the capacity of local community organisations to respond to the challenges facing their communities or drive positive social and economic change. Indeed, housing reforms have been directly intended to transfer responsibility from community organisations to government. This has undermined community capacity and also precluded community participation in housing tenancy and rent policy decision-making. In addition, CDEP reforms have had the unintended effect of undermining the viability of a range of community enterprises and projects.

The broader current focus on 'building Government in communities' is discussed in more detail below under the 'Governance' section.

Lack of Aboriginal political and representative organisations for key sectors.

One of the legacies of the last decade in Federal Indigenous policy has been the destruction of representative structures. With the demise of the Aboriginal and Torres Straight Islander Commission (ATSIC) and a range of other Aboriginal and Torres Strait Islander representative bodies, there has been a lack of resourced, structured, representative participation, with, instead, a series of fairly ad hoc arrangements. This has had clear implications for the ability of Aboriginal peoples to identify their policy

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[82] Department of Finance and Deregulation, 2010 at 11.
[83] Coordinator General for Remote Indigenous Communities, 2011 at 18.

priorities and engage in coordinated advocacy for desired policy responses. The establishment of the National Congress of Australia's First Peoples (The Congress), creates an opportunity for a new collective voice for Aboriginal and Torres Strait Islander peoples at the national level. The Congress should be regarded as a key partner by Governments in the development of policies which affect Aboriginal and Torres Strait Islander communities, including a community development strategy for the NT. However, the important ongoing role and unique expertise of NT Aboriginal organisations, particularly those which form the Aboriginal Peak Organisations of the NT (APO NT, which is comprised of the Aboriginal Medical Services Alliance of the Northern Territory (AMSANT), the Congress, the Central Australian Aboriginal Legal Aid Service (CAALAS), the North Australian Aboriginal Justice Agency (NAAJA), the CLC and the Northern Land Council (NLC)) must also be recognised and respected, along with local community Elders, service providers, organisations and community members.

The NT local government reforms have also undermined local representative structures and authority. As noted above, unlike the abolished community councils, local boards under the new shire structure have only advisory but not decision-making capacity or financial delegation leaving many residents feeling that they had 'lost their voice'.

Lack of financial capital and credit

Writing this month about the Strategic Review of Indigenous Expenditure finding that an annual $3.5 billion in Commonwealth is producing outcomes that are "disappointing at best, appalling at worst", Patrick Dodson and Ian Gill write:

> 'That's a lot of government money, but then the government spends a lot of money on all sorts of things. The difference here is that no one else spends any appreciable money on this issue. There is almost zero market capital, and negligible philanthropic money, that makes its way down to indigenous people. And yet most innovation arises either in the marketplace or thanks to donors, who provide early-stage investments in ideas outside the conventions of either the market or government funding streams'.[84]

The relationship between access to capital and land rights was discussed above. The potential to increase access to financial capital and credit is also discussed in the 'employment and economic development' section below.

Infrastructure gaps and capital deterioration

As noted above, despite additional spending under the NTER and related programs, the level of need in remote communities in the NT remains extremely high, particularly for housing and infrastructure. Homelands will fare particularly badly from the recent reforms, with a moratorium on new housing funding and very limited infrastructure investment likely to undermine any community development initiatives and also to result in capital deterioration of existing housing despite significant past investment. Addressing housing and infrastructure gaps is a critical pre-requisite for a successful community development approach.

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[84] Patrick Dodson and Ian Gill, 'A Bran Nue Way ahead', *Sydney Morning Herald,* 17 August 2011.

A Better Way: Towards a community development approach

What is community development?

Community development processes require governments to support Aboriginal communities to identify key issues and develop and implement locally appropriate and sustainable strategies to create social and economic change. The goal is to achieve increased self-reliance and decision-making power at a community level in order to improve outcomes.[85] Such an approach finds strength in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose preamble states that the parties to the Declaration are:

> *'Convinced* that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs'.

In 2009, the CLC published a community development framework that defines community development in terms of three key features:

- Taking the lead – Community members decide how they want their community to be and how to make it a better place;
- Having a plan – Community members develop a good clear plan for action; and
- Working together for shared benefits – Community members put their plan into action.[86]

The application of community development schemes in Aboriginal Australia 'is neither well tested nor well documented'.[87] However, ANTaR believes that such an approach would be both effective and sustainable due to its focus on local capacity building and collaboration between communities and governments. The successful implementation of community development strategies in an international development context is evidence of its potential to be applied to similar situations domestically.

Although governments have a significant role to play in development work and development processes, 'they are not equipped (staffed or skilled) to initiate the development process on the ground'.[88] Rather, they need to support community-centered efforts to do so.

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[85] Danielle Campbell, Paul Wunungmurra and Helen Nyomba, 2007, 'Starting where the people are: Lessons from community development from a remote Aboriginal Australian setting', *Community Development Journal* 42(2) at 151.

[86] Central Land Council, 2009b, at 1.

[87] Ibid at 3.

[88] Colin Dillon, 2000*, Review of the Indigenous Communities of Doomadgee and Palm Island.* Canberra: Aboriginal and Torres Strait Islander Commission at 125.

Why use a community development approach?

Recent Closing the Gap Clearing House research into 'what works to overcome Indigenous disadvantage' strongly reinforces the arguments for a community development approach. It identifies the following success factors: community involvement and engagement, adequate resourcing and planned and comprehensive interventions, respect for language and culture, working together through partnerships, networks and shared leadership, development of social capital, recognising underlying social determinants, commitment to doing projects with, not for, Indigenous people, creative collaboration and understanding that issues are complex and contextual.[89] All of these factors are consistent with the approach advocated in this paper.

The recent Senate Select Committee report on Regional and Remote Indigenous communities also emphasises that 'initiatives are most successful where communities feel a sense of ownership and pride'.[90] They also noted that it was important that government is seen 'as a facilitator for community aspirations rather than the sole responsible party'.[91]

No solution will be sustainable in the long term unless it has the support and proper understanding of the communities it seeks to benefit.

This argument is supported by research carried out in Australia and North America, which suggests better socioeconomic outcomes are achieved when Indigenous people are involved in setting priorities within their community, in developing policy, and in the delivery of services and the implementation of programs.[92]

Based on two decades of research and experience, Stephen Cornell, co-founder of the Harvard Project on American Indian Economic Development urges governments to:

> 'Give [Indigenous] people substantive power in their own affairs, encourage and support them in taking responsibility for themselves, offer them assistance as they design tools for the exercise of that power – and the chances are good that they will do remarkable things. Deny them all of that — as we have done for too long — and you should be prepared to pick up the pieces and pay the costs for generations to come'.[93]

A community development and empowerment approach is a sustainable approach to development which provides not only economic advancement, but 'social and cultural vitality and which emphasises long term sustainability rather than short term gain'.[94]

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[89] Dr Fadwa Al-Yaman and Dr Darryl Higgins, 2011, Closing the Gap Clearinghouse, *What works to overcome Indigenous disadvantage – Key learnings and gaps in the evidence* at 2.
[90] Senate Select Committee on Regional and Remote Indigenous Communities, 2010 at 7.
[91] Ibid at 8.
[92] Janet Hunt, 2010, 'Partnerships for Indigenous Development: International Development NGOs, Aboriginal Organisations and Communities', *CAEPR Working Paper No. 71/2010* at v. Also see the Harvard Project and Gawad Kalinga.
[93] Cornell cited in Sean Brennan. 2004. Could a Treaty make a Practical Difference in People's Lives? The Question of Health and Well –being. *The Treaty Project Issues Paper No. 4.* UNSW, Gilbert + Tobin Centre of Public Law at 11.
[94] Elspeth Young, 1995, *Third World in the First: development and Indigenous peoples*, London: Routledge at 3-4.

The UNDRIP and community development

The principles and aspirations underlying a community development approach go hand in hand with some of the core concepts of the UNDRIP. Both have their roots in notions of autonomy, participation, engagement and consultation and both seek to develop a relationship between Indigenous people and governments based on partnership and mutual respect.

Articles 3 to 5 of the UNDRIP protect the rights of Indigenous people to be autonomous in determining their development paths and maintaining and strengthening their political, legal, economic, and social institutions. These broad provisions are complemented by Articles 18, 19 and 23, which together seek to ensure governments allow Indigenous communities to exercise control over their own futures. Crucially, Article 19 provides that Indigenous people have the right to participate in decisions that affect them, guided by the principle of free, prior and informed consent.

Currently, Aboriginal disadvantage in the NT and throughout Australia is sustained in part by the continuous application of mainstream institutions and top-down policies that fail to reflect or protect Aboriginal histories, cultures, linguistic traditions, or concepts of social organisation. This is despite the fact that 'it has become a generally accepted principle in international law that Indigenous peoples should be consulted as to any decision affecting them'.[95] A community development approach would enable the government to pursue Indigenous-centered initiatives and institutions, consistent with their obligations under International law. Indeed, according to Article 38 of the UNDRIP, governments have a responsibility, *in consultation with Indigenous people,* to ensure that a political, economic, and social environment exists in which the rights and equality of Aboriginal and Torres Strait Islander peoples are protected.

Pursuing a community development approach creates an opportunity for the government to surpass symbolic support of Indigenous rights and live up to its substantive international human rights obligations. As Mick Dodson emphasises, 'the value of human rights is not in their existence; it is in their implementation'.[96]

Lessons from international development

Community development has been central to international aid and development strategies in the last decade. Within the international development sector, there is strong agreement that 'people need to participate in and shape their own development, and that having capable institutions is essential to achieving development outcomes'.[97] There is also agreement that development requires collaboration between the state, the private

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[95] James Anaya, 2005, 'Indigenous Peoples' Participatory Rights in Relation to Decisions About Natural Resource Extraction: The More Fundamental Issue of what Rights Indigenous Peoples have in Lands and Resources', *Arizona Journal of International & Comparative Law,* 22(1) at 7.
[96] Mick Dodson cited in Australian Human Rights Commission, 2010b, *Community Guide to the UN Declaration on the Rights of Indigenous Peoples Short version: Strong cultures, proud people* At 1.
[97] Hunt, 2005 at 1.

sector and civil society.[98] Community-driven approaches are emphasised to a much greater degree internationally than here in Australia.

The international development experience therefore offers some salutary lessons for Aboriginal community development. In an international context, the emphasis on sustainability requires non-government organisations and governments to ensure local people are fully engaged in development projects and capable of maintaining their benefits autonomously after the life of the project ends. The urgent need for sustainable solutions in an Aboriginal development context requires the Australian government to take similar steps domestically. Of course, we must also be mindful of the distinct features of Aboriginal Australia when considering the potential application of international development approaches.[99]

Parallels between remote communities and developing world contexts

Despite Australia's increasing affluence, Aboriginal people remain severely disadvantaged and continue to experience vastly poorer outcomes in all areas of social and economic life. Indeed, this dynamic has been described as 'an Australian domestic humanitarian crises that in many ways recapitulates aspects of the global circumstance'.[100] For this reason, many researchers, international organisations and commentators have argued that the situation in remote Aboriginal communities is analogous to a developing world context. In *Third World in the First,* Elspeth Young emphasises that Aboriginal people have 'geographic and socio-economic characteristics more similar to those of many developing nations than to the industrialised country to which they belong'.[101] A paper written for the Second Organisation for Economic Cooperation and Development (OECD) World Forum Measuring and Fostering the Progress of Societies pursues a similar line of argument. It states that within Australia there exists two fundamental population dynamics: First:

> 'A dominant developed country scenario with a population that is increasingly aging, with a low birthrate, and in which the younger generation is subject to the emergent and rising prevalence of non-communicable diseases (e.g. asthma, cardiovascular disease, obesity, diabetes and mental ill-health) and a slowing or reversal of developmental gains made in previous decades.'

And second:

> 'A minority developing-country scenario concentrated within the Australian Aboriginal population and characterised by an increasingly youthful population with a high birthrate, entrenched social exclusion and the concurrent emergence… of diseases associated with the worst features of both developed- and developing-country status (e.g. cardiovascular disease, obesity, diabetes, mental ill-health and low birth weight, infectious diseases, and a Year One failure rate at primary school of over 60%)'.[102]

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[98] Ibid.
[99] CLC, 2009 at 9.
[100] Ibid.
[101] Young, 1995 at 260.
[102] Fiona Stanley and Stephen Zuberick. 2007, 'Child Development, Human Development and the Progress of Societies', *Second OECD World Forum Measuring and Fostering the Progress of Societies* at 3-4.

This is consistent with a key finding of the 2000 Dillon Report (*Review of the Indigenous communities of Doomadgee and Palm Island: Final Report*), which emphasised that the needs of Aboriginal people in remote areas are largely developmental in nature and therefore demand responses steeped in sustainability and community-centered involvement. The Dillon Report held that any attempt to address the needs of such communities 'through a mainstream 'first world' service delivery approach is highly unlikely to produce long-term sustainable results'.[103]

According to the World Bank, experience in international development has proved that when ensured proper access to information, appropriate capacity, adequate financial assistance, and the support of local governments and other institutions, the most disadvantaged people can effectively organise in order to identify community priorities and address local problems.[104]

In planning for the future, ANTaR urges the Australian Government to recognise the parallels between remote community and developing world contexts and draw lessons from successful international community development approaches to guide policy development.

International support for community development approaches

Leading international development agencies advocate and employ community development approaches. For example, since the start of this decade, the World Bank has contributed an average of $2 billion a year towards 'Local and Community-Driven Development' (LCDD) programs across a range of countries.[105] The World Bank describes LCDD as:

> '…an approach that gives control of development decisions and resources to community groups and representative local governments. Poor communities receive funds, decide on their use, plan and execute the chosen local projects, and monitor the provision of services that result from it. It improves not just incomes but people's empowerment and governance capacity, the lack of which is a form of poverty as well'.[106]

LCDD aims to improve the understanding of community driven development approaches and their role in poverty reduction[107] and has assisted in financing vital services to developing nations, including:

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[103] Dillon, 2000 at 31.

[104] HP Binswanger-Mkhize, JP de Regt, and S Spector (Eds), 2009, 'Scaling Up Local & Community Driven Development (LCDD): A Real World Guide to Its Theory and Practice'.

[105] Katherine Sierra, Vice-President Sustainable Development, The World Bank, cited in Binswanger-Mkhize, de Regt, and Spector, 2009 at iii.

[106] Ibid.

[107] The World Bank, 2011, 'Community Driven Development', accessed: http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALDEVELOPMENT/EXTCDD/0,,menuPK:430167~pagePK:149018~piPK:149093~theSitePK:430161,00.html, 28 August 2011.

- water supply and sanitation;
- health services;
- schools tailored to community needs, able to be locally maintained and sustainable;
- nutrition programs for mothers and infants;
- building rural access roads;
- support for livelihoods; and
- micro enterprise.[108]

Gawad Kalinga: an international community-development success story

Gawad Kalinga (GK) is a development organisation that has been highly successful in lifting communities out of extreme poverty in the Philippines and other Asian countries. It uses an integrated, holistic and sustainable approach, which seeks to ensure that disadvantaged communities can progressively manage their own welfare and development.

Since its official launch in 2003, GK has established over 2000 villages and more than 60,000 homes in the poorest areas of the Philippines as a foundation for further development. Much of its work is done with Indigenous communities and its 'community building and poverty alleviation template' is now being used in Cambodia, Indonesia, Papua New Guinea and India.[109] Key program areas include land tenure, housing and shelter, productivity and livelihood, health, education and environment.

GK implements its activities in partnership with the communities it seeks to assist, together with external individuals, corporations, NGOs, religious groups, schools, institutions, and governments. Partners donate land, construction materials, jobs, funds, professional or technical services, volunteers and engage in advocacy.[110]

How GK programs work

The GK approach involves direct partnership between vulnerable communities and development agencies or governments. 'Caretaker teams', consisting of personnel from a broad range of sectors, assist disadvantaged communities to undertake training in service and leadership. Additionally, the caretaker teams work with the communities to identify their development values and needs, in order to ensure development plans are consistent with local priorities. GK emphasises the importance of this process to ensure effective and lasting self-governance. The caretaker teams then collaborate with local people to build houses, schools, playgrounds, libraries, clinics, gardens and infrastructure, and develop health and education programs.[111] The clearest evidence of

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[108] Katherine Sierra cited in Binswanger-Mkhize, de Regt, and Spector, 2009 at iii.

[109] Gawad Kalinga (GK), 2010, 'A Global Movement to End Poverty with Roots in Australia', accessed: http://www.staloysius.nsw.edu.au/general/pdf/GK%20Info%20Kit.pdf, 29 August 2011 at 2.

[110] Ibid at 2.

[111] Ibid at 2.

the program's success is 'when the beneficiaries themselves become caretakers and donors to their neighbours, as happens repeatedly'.[112]

GK has been successfully implemented in Indonesia, Singapore, Cambodia, India, and Papua New Guinea.

GK and Aboriginal development

'There is nothing in this model which is new or unique. For those who have been engaged with marginalised communities, it strikes as common sense. Yet, in this country at least, it has never been applied in a consistent, concerted or holistic way'.[113]

The GK international development model offers a path that may be applicable to disadvantaged Aboriginal and Torres Strait Islander communities in Australia.

The core values and principles of GK are generally consistent with a community development approach. They provide space for both Aboriginal assertions of autonomy and government responsibility to assist Aboriginal development. These include:

- A development approach based on strengthening and drawing on local values;
- Empowering communities to direct the provision and proper co-ordination of the support offered to them;
- Engaging long and short term volunteers/partnerships to support the community and build confidence within it;
- Having outside resources matched with active contributions from within the community; and
- Reframing the government's role from being the sole director and provider to a genuine partner working in close collaboration with both the affected community and partners from other sectors.[114]

This approach rests on the notion that initiatives which fail to address the needs of the whole community will have little impact[115] and that self-empowerment must be pursued through active community-private-public partnerships.

Commenting on the situation of Aboriginal and Torres Strait Islander people, GK Australia states:

'In Australia we have a tendency to believe that the task of addressing social disadvantage is primarily the responsibility of government. Sound policies, programs, rights and allocations are all essential but without the human relationships that allow people to feel genuinely valued, government resources often have limited impact'.[116]…

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[112] Ibid at 3.
[113] Ibid at 19.
[114] Ibid at 19.
[115] Ibid at 4.
[116] Ibid at 3.

The relationship between community development and economic development

The Harvard Project

The importance of the relationship between community development and economic development is highlighted by research undertaken over the past two decades by the Harvard Project on American Indian Economic Development (US). This research, which has considered a sample of nearly seventy American Indian nations, seeks to answer the question: in the face of seemingly intractable poverty and disadvantage, what are the conditions for sustainable economic development on American Indian reservations? From the research so far, three essential factors have emerged, each of which is highly compatible with notions of increased self-reliance, collaboration and capacity building that are central to a community development approach.

1. **'Self-Rule':** Indigenous people must have genuine decision-making power over the development approaches they take. The Harvard Project's research shows that as Indian nations expanded the scope and degree of their own decision-making power, the chances of sustainable economic development rose.[117] The primary reason for this is accountability: self-rule directly links decision makers to the consequences of their decisions. Furthermore, it fosters local engagement in economic and community development, something effectively discouraged by the imposition of top-down provisions that alienate Indigenous communities from the decision making process.[118]

2. **'Capable Governing Institutions':** to maintain a jurisdictional shift, Indigenous people must be empowered to govern well. That is, they must have strong institutions together with the capability and legitimacy to make good decisions and be accountable for them.[119] To achieve this, they need sufficient government support including adequate financial assistance.

3. **'Congruence between formal governing institutions and Indigenous political culture':** in order for economic development to be successful, there must be a match between the formal institutions of governance and prevailing ideas within the Indigenous community about how authority should be organised and exercised. A cultural match provides the governing body with legitimacy among those it seeks to govern, and is thereby central to its effectiveness.[120] This reinforces the widely expressed argument that top-down government policies, designed without proper consultation and consent, cannot be effective in producing sustainable economic development.

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[117] Stephen Cornell, 2006, 'Indigenous Peoples, Poverty and Self-Determination in Australia, New Zealand, Canada and the United States', *Joint Occasional Papers on Native Affairs* at 16.
[118] Ibid at 13.
[119] Cited in Brennan, 2004 at 2.
[120] Cornell, 2006 at 17.

Those Indian nations that have managed to pursue and sustain successful economic development have seen a vast array of improvements, including:

- reduced unemployment;
- reduced reliance on social security;
- the emergence of viable and diverse economic enterprises, both tribal and private, on reservation lands ;
- more effective administration of social services and programs, including those addressing language and cultural concerns; and
- improved management of natural resources.[121]

Many of these nations proved to be more efficient and effective in running their own affairs and managing their own resources than federal administrators had ever been.[122]

The development successes of a small number of Indian nations are outlined below. These groups have broken away from the legacy of poverty by building successful economies on their own terms, in line with the abovementioned criteria:[123]

> • **In Nebraska, the Winnebago's** Ho-Chunk, Inc. and its conglomerate of financial service, construction, consulting, and retailing businesses generates revenues of more than $100 million per annum, with unemployment falling from 70% in 2000 to a position where 'every reservation citizen able and willing to work has a job' in 2010.
>
> • **North of Seattle, Washington, the Tulalip Tribe** has created the municipality of Quil Ceda Village and invested heavily in municipal infrastructure and services, becoming the second largest employer in the county where they are located.
>
> • **In Oklahoma, the Citizen Potawatomi Nation (CPN)**, which in the 1970s had a mere US$550 in cash and 2.5 acres of trust land, now owns a bank, golf course, casino, tribal farm, retail food outlets, radio station, and more than 4,000 acres in land. CPN favours investment in services and infrastructure over per-capita payments, driving its growth.

These Nations followed a development approach identified by the Harvard Project as a 'nation-building approach', which looks similar to community development. This is contrasted with what they refer to as a 'jobs and income approach'.[124] The details of these opposing development methods are laid out in Table 1 below.[125] According to

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[121] Ibid at 18.

[122] Ibid at 18.

[123] These case studies are extracted from research undertaken by the Harvard project: Stephen Cornell and Joseph P Kalt, 2010, 'American Indian Self-Determination: The Political Economy of a Policy that Works', Harvard Kennedy School at 14. For further success stories see Stephen Cornell and Joseph P Kalt, 2003, *Sovereignty and Nation-Building: The Development Challenge in Indian Country Today.* The Harvard Project on American Indian Economic Development at 189-190.

[124] See Cornell and Kalt, 2003 at 191.

[125] This table is extracted from Ibid at 194.

research carried out by the Harvard Project over a number of years, the data consistently showed that:

1. The 'jobs and income' approach may lead to some quick business start-ups and short-term successes, but does not produce a sustainable future for the nation.

2. A 'nation-building' approach is no guarantee of economic success, but vastly improves the chances that economic development will take root and be sustainable. It is far more likely to produce prosperity for the nation and its people.[126]

The recent conflation of employment and economic development in Government policy statements misses the important distinction between community development or 'nation-building' approaches and 'jobs and income' approaches – the former likely to be much for effective in the long-term and accord with the aspirations of Aboriginal people.

TABLE 1
Two Conceptions of Economic Development

"Jobs and Income"	"Nation-Building"
Reactive	Proactive
Responds to anyone's agenda (from the feds or off the street)	Responds to your agenda (from strategic planning for the long-term future)
Emphasizes short-term payoffs (especially jobs and income *now*)	Emphasizes long-term payoffs (sustained community well-being)
Emphasizes starting businesses	Emphasizes creating an environment in which businesses can last
Success is measured by economic impact	Success is measured by social, cultural, political, *and* economic impacts
Development is mostly the tribal planner's job (planner proposes; council decides)	Development is the job of tribal and community leadership (they set vision, guidelines, policy; others implement)
Treats development as first and foremost an economic problem	Treats development as first and foremost a *political* problem
The solution is money	The solution is a sound institutional foundation, strategic direction, informed action

The socio-economic landscape of Indian reservations shares key characteristics with many NT Aboriginal communities including high unemployment, average household

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[126] Ibid at 193.

incomes well below the poverty level, extensive dependency on welfare and high indices of ill health and other indicators of poverty.[127] Furthermore, given the shared history of colonialism and dependency among Native Americans and Indigenous Australians, important policy insights can be drawn from the US example. [128]

As Stephen Cornell, a co-founder of the Harvard Project notes, states are generally more willing to engage with 'practical' socio-economic issues of equity and access, than political issues like self-determination.[129] However, Cornell's research provides an economic argument for higher levels of community control, not only for Indigenous people, but also governments, which inject millions of dollars each year into often inefficient and ineffective policies as confirmed by the recent Strategic Review of Indigenous Expenditure. Indeed, the 'refusal to come to grips with Indigenous demands for self-determination cripples the effort to overcome Indigenous poverty'.[130]

The Government has a responsibility to support and empower Aboriginal communities in the NT, in order for them to gain the capacity to pursue sustainable economic development. The impediments to economic development in the NT are widely acknowledged – for example, the lack of an Aboriginal skilled labour force; low adult literacy and numeracy; lack of infrastructure needed to conduct business; and environmental restrictions in remote communities[131] – but there is also powerful evidence, which suggests that through a community development approach, where government works collaboratively with Aboriginal people, sustainable economic development is possible.

A community development future for the NT

General

As noted in the introduction to this paper, the Government is now at a critical juncture in planning for the future of remote communities in the NT with key NTER measures due to expire in mid-2012.

The recently released Strategic Review of Indigenous Expenditure Report highlighted the importance of this policy planning process, recommending in 2010 that the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) 'develop a strategy in preparation for the cessation of the NTER and the *National Partnership Agreement for Closing the Gap in the Northern Territory* in mid-2012 to cover the transition to future arrangements.'[132] It stressed the need for funding proposals to be considered during the 2012-13 Budget process at the latest if funding is to be continued after June 2012. The report flagged a number of possible options, including the transition of NTER funding to the NT Government, continuing funding

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[127] Ibid at 191.
[128] Cornell, 2006 at 12.
[129] Ibid at 11.
[130] Cornell, 2006 at 27.
[131] Central Land Council (CLC), 2005, Communal Title and Economic Development at 6-7 accessed at http://www.clc.org.au/media/papers/CLC_%20tenure_paper.pdf on 31 August.
[132] Department of Finance and Deregulation, 2010 at 317.

through the *Remote Services Delivery* strategy and/or transitioning to mainstream programs.[133]

The Report also stressed the need for Governments to stay the course in Indigenous program funding and implementation:

> 'The deep-seated and complex nature of Indigenous disadvantage calls for **policies and programs which are patient and supportive of enduring change** (including in the attitudes, expectations and behaviours of Indigenous people themselves). **A long-term investment approach** is needed, accompanied by a sustained process of continuous engagement.'[134]

In his most recent report, the Coordinator General highlighted the benefits of 'fully functional place-based approaches', which allow for 'local people to drive change and have the power and authority to do so by:

- Decentralising policy and administration;
- Ensuring funding is predictable and reasonable;
- Behaving in a way that assists people to have a sense of control over their own destiny; and
- Building on successes and strengths rather than failures and deficits.'[135]

However, the Coordinator-General recognizes that implementation of this approach presents considerable capacity challenges at community and government levels. In particular, he argues that governments will need to work with key stakeholders to build community capacity, including ensuring information is available to allow informed decisions to be made and effective community governance structures are in place.[136] He also highlights the need for improvements to the capacity of government officers beyond cultural competence and extending to skills development in 'community development work, capacity building, partnerships and community change'.[137]

This section contains an analysis of the Government proposals outlined in *Stronger Futures* against the community development principles outlined above and advocates a range of broader measures within a proposed future community development agenda for remote communities in the NT. It urges the Government to maximise the opportunities arising at this critical policy and funding juncture to secure a sustainable future for NT communities through community development and place-based approaches.

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[133] Ibid.
[134] Ibid at 15.
[135] Coordinator General for Remote Indigenous Communities, 2011 at 5.
[136] Ibid.
[137] Ibid.

Stronger Futures: a community development analysis

a) School attendance and educational achievement

'… unless Indigenous children secure a good start in life, including a strong base of skills through the schooling system, their prospects for a healthy and productive life will remain bleak and progress in addressing Indigenous disadvantage overall will continue to be painfully slow.'[138]

ANTaR welcomes the Government's focus on school attendance as a key priority in creating a better future for remote NT communities. As *Stronger Futures* states, Aboriginal children in the NT have some of the worst educational outcomes in Australia.[139]

Importantly, *Stronger Futures* recognises the links between educational outcomes and other aspects of disadvantage, like housing and health. However, the paper cites a range of existing government measures of limited or variable effectiveness, either due to flaws in program design or implementation. These include income management, the delivery of housing and child health checks. The design and implementation of income management, additional housing and child health checks do not accord with community development principles due to the failure to consult or partner with communities or to target to need. Other measures cited, like the School Nutrition Program, crèches, playgroups and family programs, are more consistent with a community development approach, but questions about the effectiveness of these measures remain. For example, the recently released Strategic Review of Indigenous Spending Report noted that available evidence at the time of writing suggested that while the school nutrition program had boosted Indigenous employment and may have helped to improve children's nutrition, it had failed to achieve its primary goal of boosting school attendance rates in NTER communities.[140]

ANTaR welcomes the Government's acknowledgment that 'government cannot do this alone – it needs to work with parents, families and communities' and we acknowledge increased investment in teaching under the NTER and related policies. However, the emphasis in *Stronger Futures* is largely on the responsibility of parents to get children to school without a clear plan by Government to improve the quality of education available to children in remote communities. ANTaR is concerned that a 'getting tough on parents' approach will not contribute to better educational outcomes in the long term, and is likely to exacerbate financial hardship, for example through the imposition of fines or the long-term suspension of social security payments under the School Enrolment and Attendance Measure (SEAM) program.

The NT Government has recently strengthened penalties for non-attendance and non-enrolment. *Stronger Futures* expresses the Federal Government's support for these changes. The Government claims that its school attendance welfare trial (SEAM) is 'having a positive impact on parents ensuring their children are enrolled and regularly

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[138] Department of Finance and Deregulation, 2010 at 15.
[139] Stronger Futures at 10.
[140] Department of Finance and Deregulation, 2010 at 17.

attending school'. However, no formal evaluation has been completed or made public. The SEAM payment suspension period of more than 3 months (13 weeks) is unprecedented in Australian social security legislation and poses a serious threat to family health and wellbeing.[141] Indeed, the Bills Digest found that 'a welfare-dependant family will not be able to tolerate that level of financial disadvantage', even if in receipt of family payments.[142]

In addition, the abolition of bilingual education in the NT and the continuation of the discriminatory policy of sub-standard, under-resourced Homeland Learning Centres in remote homelands has left communities frustrated that their vision of culturally appropriate quality education for their children is not shared by government.

Improving rates of school attendance – 'what works'

In order to understand "what works" in improving rates of school attendance amongst Aboriginal and Torres Strait Islander children, it is necessary to take appropriate account of the factors contributing to low attendance rates or truancy. These factors have been the subject of extensive research and include reduced self-esteem due to poor performance; an inability to identify with educational values and expectations; the level of education of a child's carers; clinically significant emotional or behavioural difficulties; life stress events and language barriers, among other factors.[143]

Conversely, factors conducive to improving attendance include:

- an integrated approach involving the whole of the school and the surrounding community;
- changing the school climate to "*emphasise cooperation and to encourage active learning*",
- cultural inclusiveness and sensitivity;
- flexible responses to students' stated or perceived needs;
- improving teachers' skills in order to cater for student abilities and needs. [144]

Improving educational infrastructure

Measures to improve school attendance can only go so far if they are not accompanied by improvements in education infrastructure in remote communities.

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[141] ACOSS, Submission to the Senate Community Affairs Committee, *Social Security and Veterans Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*, October 2008, accessed at:
http://acoss.org.au/images/uploads/ACOSS_Submission_on_Schooling_Requirements_Bill.pdf.

[142] Marilyn Harrington and Peter Yeend, 2008, Bills Digest, *Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*, Parliamentary Library, no 14, 2008-09 (Bills Digest) at 21.

[143] Australian Council of Social Service, 2008, Submission to the Senate Community Affairs Committee on the *Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008* at 16.

[144] See Graeme Withers, 2004, *Disenchantment, Disengagement, Disappearance: Some recent statistics and a commentary on non-attendance in school*, June 2004.

According to the Combined Aboriginal Organisations of the NT, as of 2007, 94% of Indigenous communities in the NT had no pre-school, 56% had no secondary school and 27% had a local primary school that is more than 50 kilometres away, with only 17% of communities having their own primary school.[145]

The 2008 Social Justice Report found that 'many remote Indigenous students receive a part-time education in sub-standard school facilities – if they receive a service at all.'[146]

> 'If we are going to assess remote Indigenous students against all other Australian students then we have to do better than part-time education services of three days a fortnight delivered in a tin shed with a dirt floor. We have to do better in our commitment to working with local communities to decide the appropriate education services for the region. It is time to start looking closely at the inputs as well as the outcomes'.[147]

The Social Justice Commissioner made a number of recommendations to 'assist governments to make education 'available and accessible' to remote Aboriginal students in line with their right to enjoy the full entitlements of Australian citizenship.'[148] However, these recommendations have not been implemented. Major Government investment in improving education infrastructure in remote NT communities must be a key part of the next stage in its strategic response.

The way forward

Stronger Futures suggests a number of possible future directions. Amongst other things, proposals are directed towards improving links between early childhood and primary education, improving the quality of early childhood services and providing additional support in classrooms for students with special needs. ANTaR encourages the Government to engage communities in meaningful consultations to give further shape to these proposals and ensure they are targeted and adapted to the needs of specific communities. As part of this process, the recommendations made by the Australian Human Rights Commission on the draft National Indigenous Education Plan should be taken into account. We particularly support the proposal to increase the number of teachers with English as a Second Language ("ESL") training. However, in addition to increased numbers of ESL-trained teachers, there is a need to provide for properly resourced bi-lingual education in communities that opt for such an approach. Bi-lingual education is an evidenced based teaching method that can achieve strong educational outcomes including in relation to competency in English.

Fundamentally, Government must re-think its sanctions-based approach to improving school attendance and address the education infrastructure gaps in remote communities. Major investment in education infrastructure and additional teachers must be a key plank in the next stage of the Government's remote community strategy. In addition, the focus must be on improved liaison between schools and communities (for example, through better engagement with Elders); greater engagement with Aboriginal

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[145] Combined Aboriginal Organisations of the Northern Territory, 2007, *A proposed Emergency Response and Development Plan to protect Aboriginal children in the Northern Territory: A preliminary response to the Australian Government's proposals* at 18.
[146] Aboriginal and Torres Strait Islander Social Justice Commissioner, 2008, *Social Justice Report 2008*, Report No. 1/2009 at 96.
[147] Ibid at 143.
[148] Ibid at 144.

teachers and teacher aides and an education curriculum that appropriately incorporates Aboriginal perspectives.[149] Essentially, a successful approach is not based purely on "getting tough on parents". Rather it must look to promote self-esteem and confidence amongst Aboriginal children, within a culturally sensitive learning environment, and with strong levels of engagement with the local Aboriginal communities from which students are drawn.

b) Economic development and employment

Stronger Futures has a clear focus on economic development and employment. It notes high levels of unemployment among the Aboriginal population in the NT, with more than one third of Aboriginal Territorians not in the labour force.[150] The paper also notes that despite the conversion of some CDEP jobs into regular service delivery positions, 'there is still a significant employment challenge'. Indeed, as noted above, despite limited job creation, the gap between abolished and new positions is significant with reforms arguably having a negative effect overall on employment and training outcomes, as well as on the sustainability of community enterprises.

Income management is described in *Stronger Futures* as a 'tool' in 'promoting active engagement in study and employment' due to the employment and study exemptions under the scheme. While in theory, exemptions might operate as an incentive to young people not engaged in education, training or employment and older job seekers, there is no evidence to suggest that the income management exemptions are currently having this effect. Available figures tell us that 850 people had been exempted from income management 'due to becoming full-time students'.[151] However it is not clear whether in fact these students were already enrolled or are new students. Even if they are recently enrolled, there is nothing to suggest that this is an effect of income management.

Reflecting on employment and enterprise opportunities, the recent Senate Select Committee on Regional and Remote Indigenous Communities concluded that, despite evidence of successful projects in specific communities, 'there remains little possibility of significant widespread development on current trajectories'.[152] The Government notes the need to 'identify new opportunities for economic development in remote regions', including within emerging and existing industries and increasing employment opportunities in the community services sector. This idea is not a new one. In 1985, the Miller Committee produced a detailed report on employment and training programs which recommended government investment in the building of an economic base for development, particularly in rural and remote contexts.[153] This is vitally important and requires meaningful dialogue with communities to empower them to drive the creation of new industries and enterprises as well as sophisticated and detailed analysis by a range of social policy and economic experts.

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[149] See Larissa Behrendt, 2008, 'Rethinking Indigenous policy', *The Age*, 25 August 2008.
[150] Stronger Futures at 13.
[151] Ibid.
[152] Senate Select Committee on Regional and Remote Indigenous Communities, 2010b at 6.
[153] Mick Miller, 1985, *Aboriginal employment and training programs: report of the Committee of Review, August 1985 [Miller report]*, Australian Government Publishing Service, Canberra.

A review of remote participation and employment services is currently being conducted, with a new model to be implemented by 1 July 2013. *Stronger Futures* outlines a range of other possible reform directions. These includes some sensible proposals to improve employment pathways, better tailor training to the opportunities available, create more opportunities through government procurement and improve Centrelink service delivery. But, the proposals offer little detail and are quite narrow in scope. For example, little serious thinking seems to have been done about the kinds of opportunities that might exist in new and emerging industries (for example, in the carbon economy, including carbon abatement and farming and horticulture), in building on the success of existing industries and programs (the visual arts sector, Caring for Country/ Working on Country activities) and in social enterprises (e.g. community stores) and community organisations.[154] All of these initiatives would have economic and social benefits for individuals and communities.

As Patrick Dodson and Ian Gill wrote recently, the government currently invests minimally in natural resource management – just 3.8% of total spending on Indigenous programs – despite this being 'the one area that delivers the most promising returns.'[155] They argue that current natural resource management grant programs, including Indigenous Protected Areas (IPAs) or Caring for Country programs, have no guaranteed future and that IPA's are 'woefully under-invested in, despite being central to the government's boast about protecting biodiversity and achieving national conservation goals.'[156] Dodson and Gill highlight the social and economic benefits of living on country, with a study of IPA communities showing evidence of improved diets, higher levels of physical activity, greater economic participation, improved early childhood development and reductions in substance abuse.[157] They make the case for social impact bonds to 'put front-end market and philanthropic capital at risk to create positive social impacts', an approach currently being trialed in the UK, arguing that:

> 'An impact bond is one way to offer more control to indigenous people over investments in their future and for them to participate in the Australian economy on their own terms'.

The way forward:

ANTaR reiterates our support for the creation of a new community employment and enterprise scheme for regional and remote Australia as outlined APO NT in its 'Funding the jobs gap' paper discussed above. We also urge the Government to work with communities to explore options to increase capital and investment to build an economic base, including exploring the potential benefits and risks of social impact bonds.

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[154] See APO NT, Funding the jobs gap: A proposal for a new Community Employment and Enterprise Development Scheme (CEEDS) for regional and remote Indigenous Australia, December 2010 at 4.
[155] Patrick Dodson and Ian Gill, 'Will to help becomes a bond of renewal', *Sydney Morning Herald,* 17 August 2011b.
[156] Ibid.
[157] Ibid.

c) Tackling alcohol abuse

The Government has indicated its intention to focus on addressing alcohol abuse as a key part of the next stage of its remote communities policy agenda. It has also indicated that this response will include tackling the supply of alcohol.

ANTaR is encouraged by the commitments expressed by the Government in *Stronger Futures* to work in partnership with communities to develop local solutions to the problem of alcohol abuse, including addressing the underlying causes of alcohol abuse.

The effectiveness of the Government's response will now depend on the extent to which it adheres to these principles and the resources available to support communities in developing and implementing their own plans and addressing service gaps. The Government's response must focus not only on the misuse of alcohol, but also other drug problems in communities.

Investment in alcohol and other drug measures

ANTaR acknowledges additional investment by the Federal Government in drug and alcohol services in the NT.

As part of NTER, in 2007-08, the Department of Health and Ageing invested $8 million in Alcohol and Other Drug ("AOD") measures. These included in investment in hospital acute care services, expanded residential care places and sobering up facilities, the establishment of a number of outreach workers based in Aboriginal medical services, additional training and education and establishment of a Clinical Director position.

In 2008-09, an additional $2.6 million was allocated to enable continued funding of programs established as a result of the NTER AOD response. This level of funding is continuing for a further three years, from July 2009 to June 2012, under the Closing the Gap – NT Indigenous Health and Related Services measure.

However, at present, as the APO NT Response to *Stronger Futures* notes, the reach of new AOD services is 'patchy'. The scale of the problem demands a much more significant resource allocation to ensure services are available in most, if not all, communities. In addition funding for AOD services has been directed towards discrete specialist services rather than integrated within a Primary Health Care model.[158]

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[158] APO NT, 2011, Response to Stronger Futures at 28.

The way forward

The Government should be mindful that action to address alcohol abuse is likely to be less effective if:

- it is externally imposed without local Aboriginal community control or is culturally inappropriate;
- it is short-term or "one-off" in nature and does not build Aboriginal community capacity;
- it is solely focused on education and awareness, rather than as part of an integrated approach employing the measures outlined above; or
- it stigmatises users.

Rather, an effective and comprehensive approach requires:

- ***supply reduction strategies***, including price controls, restrictions on trading hours, fewer alcohol outlets, dry community declarations, substitution of Opal fuel for unleaded petrol, and culturally sensitive law enforcement;.
- ***demand reduction strategies,*** including early intervention, alternatives to AOD use, effective treatments and ongoing care to mitigate against relapses.
- ***harm reduction strategies,*** including community patrols, sobering-up shelters, and needle and syringe exchange programs.[159]

Importantly, the next stage of the Government's response must involve increased and ongoing funding (well beyond 2012) to expand access to alcohol and drug services, integrated with primary health care services in a holistic care model. In addition, Government must support and resource remote communities to develop their own alcohol management plans to put communities back in the driving seat of alcohol management. Finally, the Government should adopt a range of effective supply, demand and harm reduction strategies, as recommended by the National Indigenous Drug and Alcohol Council and key NT peak organisations, as detailed below.

ANTaR notes that the National Indigenous Drug and Alcohol Committee ("NIDAC") has set out a number of principles that must underpin AOD policy. These include the following:

- Indigenous people should be involved at all stages of the development and implementation of strategies to address harmful alcohol use in their communities.
- The capacity of Indigenous communities to deliver alcohol intervention initiatives should be actively encouraged and resourced – including and expanded program of workforce development.
- Any strategies to reduce alcohol-related harm should be evidence-based and culturally secure.

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[159] Dennis Gray and Edward Wilkes, 2010, Closing the Gap Clearing House, *Reducing alcohol and other drug related harm*, *Resource sheet no. 3*.

- Strategies to specifically address harmful alcohol use should be conducted in conjunction with strategies to address the underlying social determinants of such use.[160]

ANTaR supports these principles. NIDAC has also proposed a number of principles for each of the three facets of AOD policy outlined above.

Supply reduction

The NTER introduced blanket alcohol bans across communities, despite the fact that many were already dry communities. APO NT stated in their Issues Paper on the future of the intervention:

> 'In our experience, blanket alcohol bans in prescribed communities are not effective in tackling alcohol problems, except where communities have chosen to implement these restrictions themselves'.

While communities have been able to develop their own alcohol management plans since 2009, the Government has provided no resources to assist communities in this process.[161] *Stronger Futures* states that the Government is committed to the current alcohol restrictions and, 'where necessary' with 'help those communities without [Alcohol Management Plans] to develop and agree plans'. It is not clear what kind of support the Government is offering and whether any additional funding is available. Community plans are vitally important and much more likely to be effective than government blanket bans. However, resources are critical. As the Coordinator-General stated in his most recent report:

> 'Given the strong link between alcohol abuse and domestic violence and other offending behaviour, it is critical that [Alcohol Management Plans] include a holistic approach, incorporating for example expanded substance abuse treatment services.'[162]

ANTaR urges the Government to give serious consideration to proposals to reduce supply, including:

- a graduated tailored volumetric tax on all alcohol products, complemented by incentives for low alcohol based drinks;
- more active policing and enforcement of supply restrictions by State/territory police, and of regulations regarding responsible service;
- consistent application of additional restrictions on supply in high consumption areas;
- action to limit or reduce the density of license premises in areas of high alcohol-related harm;
- supply restricted hours on takeaway alcohol;
- better data collection to enable monitoring of consumption levels and the evaluation of intervention efforts[163]; and

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[160] National Indigenous Drug and Alcohol Committee, *Addressing harmful alcohol use amongst Indigenous Australians,* accessed at: http://www.nidac.org.au/index.php?option=com_content&view=article&id=91%3Aaddressing-harmful-alcohol-use-amongst-indigenous-australians&catid=37&Itemid=63, 20 August 2011.
[161] APO NT, 2011 at 7.
[162] Coordinator General for Remote Indigenous Communities, 2011 at 23.

- the introduction of a floor price and regulation of outlet density as critical measures in supply reduction.[164]

Demand reduction

ANTaR urges the Government to seriously consider NIDAC's calls for:[165]

- a significant proportion of alcohol excise and other taxation revenue to be allocated to reduce high levels of demand;
- establishment of, and support for access to, alcohol diversion programs;
- expanded locally and/or regionally appropriate preventive programs;
- greater resource allocation to primary health care providers for prevention and treatment activities;
- expanded community based and residential treatment programs in areas where they do not currently exist, and improved access to existing programs; and
- Allocation of resources for coordinated case management of alcohol dependent persons, and for their ongoing care.

Harm reduction

ANTaR urges the Government to give serious consideration to NIDAC's calls for:

- alcohol social marketing campaigns regarding safe drinking;
- expansion of night patrols and/or sobering-up shelters where desired by communities;
- adequate and safe sobering-up facilities in police lock-ups in communities without such facilities.

d) Community safety and the protection of children

Stronger Futures notes that the primary stated objective of the original NTER was to ensure the safety and protection of children in remote NT communities. In addition to the broader welfare, housing, health and other measures, a number of specific law enforcement measures were introduced to achieve this objective. This included additional police and police stations, the expansion of night patrols, safe houses and mobile child protection and family and community workers. The NT Government has also introduced reforms and additional resources to the child protection system in response to the *Growing them strong, together* report. Many of these measures have

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[163] National Indigenous Drug and Alcohol Committee, *Addressing harmful alcohol use amongst Indigenous Australians,* accessed at:
http://www.nidac.org.au/index.php?option=com_content&view=article&id=91%3Aaddressing-harmful-alcohol-use-amongst-indigenous-australians&catid=37&Itemid=63, 20 August 2011.
[164] Advanced by AMSANT.
[165] National Indigenous Drug and Alcohol Committee, *Addressing harmful alcohol use amongst Indigenous Australians,* accessed at:
http://www.nidac.org.au/index.php?option=com_content&view=article&id=91%3Aaddressing-harmful-alcohol-use-amongst-indigenous-australians&catid=37&Itemid=63, 20 August 2011.

been broadly supported by communities, including the expansion of night patrols and safe houses.

More controversially, the Federal Government introduced a range of extraordinary special law enforcement powers as part of the original NTER legislation, including expanded Australian Crime Commission investigative powers, and prohibited courts from considering matters of custom and culture in determining appropriate sentences and bail conditions. ANTaR urges the Government to retract these discriminatory and unnecessary laws in order to build a relationship of trust and partnership with Aboriginal people.

Police

Stronger Futures asserts that 'community safety has been improved with additional police and police stations'. However according to a 2009 report by James Pilkington, which studied police presence in Aboriginal communities throughout the NT, the impact of police on feelings of community safety has been mixed, depending on the behavior of police and the nature of their relationship with the community. In some communities police were regarded as helpful and trustworthy. But in others they were regarded with fear and apprehension and seen as 'rough or cheeky'.[166]

Police have the potential to play an important and constructive role in ensuring the safety of NT communities. However, Pilkington's report affirms that community engagement and cultural understanding are vital. The research found that 'if the police understand Aboriginal culture and try and work the way people in the community want them to, then people will trust them more', feel safer, and be more inclined to work in cooperation with them.[167] However if police are not considered 'good people', Aboriginal people will pursue other options.[168]

The report also identified the need for government to support and supply resources to community-centered law and justice mechanisms and to enable communities to reach agreements with police about how policing should take place.[169] There is a crucial need for a clear avenue of communication between Aboriginal people and police[170] to ensure community safety is protected in an effective and culturally appropriate manner.

Justice Reinvestment

The Government urgently needs to direct resources to culturally relevant, community-centered services in remote communities, including early intervention and prevention services, to reduce offending and improve community safety. Responding to criminal behaviour after the act, and using incarceration as the primary approach, is ineffective.

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[166] Pilkington, 2009 at 5.
[167] Ibid.
[168] Ibid at 7.
[169] Ibid.
[170] Ibid at 6.

Justice Reinvestment, which is currently being explored in fourteen US states and which has been recommended by a growing number of Australian reports,[171] offers a fresh approach to community safety. It is focused on better use of prevention activities and alternatives to custody. It involves 'calculating public expenditure on imprisonment in localities with a high concentration of offenders, and diverting a proportion of this expenditure back into those communities to fund initiatives that can have an impact on rates of offending.'[172]

Justice Reinvestment is an evidence- and place-based, holistic approach that can deliver reduced imprisonment, safer communities and reduced net public expenditure on prisons and crime related costs. Currently in communities with high concentrations of prisoners, 'millions are being spent *on* the [community], but not *in* it'.[173] Papunya, which is a prescribed community under the NTER legislation, is one example.

> 'In 2007-08, there were 72 adults in NT jails who usually live in Papunya (which has a total population of 379, including 71 people under the age of 14 years). At $164 per day per prisoner, positing an average sentence of nine months of that year, this incarceration rate represents a corrections cost of at least $3 468 960 per year for a community of less than 400 people'.[174]

Melanie Schwartz, a research associate to the Australian Prisons Project, argues it would be 'highly significant' for the Papunya community 'if a proportion of the dollars lost to corrections each year were reinvested in building crime prevention (though not necessarily criminal-justice focused) capacity inside the community'.[175]

Reducing crime cycles by establishing community-based initiatives that support ex-prisoners, combat recidivism, provide alternatives to incarceration and focus on early intervention will create safer communities. Justice reinvestment emphasises the centrality of community context to the offending cycle[176] and dictates that local law and justice groups, rather than centralised government, should be empowered to decide how money should be allocated to create safer local communities. The Federal and NT Governments must support the development of meaningful structures that allow Aboriginal Elders and community leaders to play a significant role in community safety matters, in partnership with the key stakeholders of the mainstream justice system.[177]

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[171] See Aboriginal and Torres Strait Islander Social Justice Commissioner, 2009; Senate Select Committee on Regional and Remote Indigenous Communities 2010b; The 2009 Senate Legal and Constitutional Affairs Reference Committee's report on their inquiry into access to justice; A strategic review of New South Wales' Juvenile Justice system in 2010; and A 2010 report by the Community Development and Justice Standing Committee of the Western Australia Legislative Assembly.

[172] Melanie Schwartz, 2010, 'Building Communities, Not Prisons: Justice Reinvestment and Indigenous Over-imprisonment', *Australian Indigenous Law Review, 14(1)* at 2. Also see Aboriginal and Torres Strait Islander Social Justice Commissioner, 2009, *Chapter 2.*

[173] Aboriginal and Torres Strait Islander Social Justice Commissioner, 2009 at 179 .

[174] Schwartz, 2010 at 4-5.

[175] Ibid at 5.

[176] Ibid at 4.

[177] Ibid at 4.

The Way Forward:

ANTaR advocates a justice reinvestment framework within which funding can be directed towards early intervention and diversionary initiatives to reduce the Aboriginal prison population. Within this framework, we advocate:

- Ongoing support for effective community safety initiatives, including night patrols;
- More support and resources to community-directed law and justice mechanisms;
- Programs and education to promote better understanding of Aboriginal culture among police, and a willingness to adopt community approaches to policing;
- Enabling Aboriginal communities to play a meaningful role in community safety and foster constructive partnerships with key stakeholders in the mainstream justice system.

e) Health

ANTaR acknowledges that the NTER and related funding initiatives have significantly increased resources for primary health care services in the NT and emphasises the need for these resources (though not necessarily through current programs) to be maintained to secure long-term improvements in health and wellbeing.

The APO NT response to *Stronger Futures* analyses the impact of recent NTER-related health funding, mainly through the Child Health Check Initiative (CHCI) and the Expanding Health Service Delivery Initiative (EHSDI).[178] It highlights problems associated with the CHCI program but noted the positive impacts of the EHSDI initiative in facilitating an expansion in the remote primary health care workforce. Despite this, APO NT raised concerns that the growth in administration and management positions has not been matched by a similar growth in Aboriginal health worker positions (this workforce having decreased by 30% over the past decade). The growth of the Aboriginal health worker workforce should be an urgent priority in the next stage of policy planning.

The way forward:

Stronger Futures states the Government's support for the 'continued expansion and reform of primary health care with a focus on regional, community-controlled health services'.[179] It suggests some possible additional initiatives which ANTaR would strongly support, including:

- More alcohol and other drug treatment services;
- Better support for mental health and care for people with severe and debilitating mental illness (ANTaR strongly supports service delivery integrated with primary care through local community-controlled health services) ;
- Improved specialist and allied health care services for children;
- Improved therapeutic services for children who have been victims of child abuse.

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[178] APO NT, 2011at 27.
[179] Stronger Futures at 19.

Obviously all of these measures should be designed and implemented in partnership with Aboriginal communities and with a focus on expanding the Aboriginal health workforce.

In addition to these proposals, ANTaR supports the recommendations by APO NT in its recent response to *Stronger Futures*. In particular, we wish to highlight the need to continue current primary health care reforms under the coordination of the NT Aboriginal Health Forum.[180]

f) Food security

Stronger Futures highlights the current obstacles to ensuring a secure food supply for remote Aboriginal communities in the NT including distance, lack of economies of scale, lack of competition and cost.

The NTER introduced a range of initiatives designed to improve food security. These were:

- A community store licensing scheme;
- Funding for Outback Stores – a Commonwealth Government owned company; and
- Funding for community store infrastructure (to provide new stores, upgrades and staff accommodation).

In addition, an inter-governmental National Strategy for Food Security in Remote Indigenous Communities was agreed in December 2009 and includes a number of strategies to improve the quality of produce sold at community stores.

Stronger Futures highlights evaluation findings that store licensing 'had expanded the range of healthy food available and improved store environments, pricing and financial transparency' but noted that 'the cost of food and the quality of takeaway food continues to be a problem'.

The way forward:

Stronger Futures proposes a number of possible future directions to improve food security, including:
- Continuing the community stores licensing scheme while addressing problems;
- Continuing support for non-commercially viable stores which are essential to food security; and
- Possible regulation, management support, infrastructure and supply options.

ANTaR is encouraged by the Government's stated desire to support local community ownership and its acknowledgment of the disempowering effects of significant government involvement and control.

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[180] APO NT, 2011.

We encourage the Government to think more broadly about the policy levers it can use to increase food security. For example, the 2010 Senate Select Committee on Regional and Remote Communities report recommended that COAG explore the potential for 'self-sustaining small scale agriculture, permaculture or market gardening 'to improve access to nutritious food in remote communities.[181] Though limited government support for small scale agriculture and permaculture projects is available, an expansion of existing programs is required to maximise the potential of these emerging remote industries. We also support the CLC's recommendations to the 2009 Senate Inquiry into community stories in remote Aboriginal and Torres Strait Islander communities. In particular, that the Australian Government consider:

- Tax subsidies on fresh food for remote consumers;
- Transport subsidies for fresh food and other perishable items to remote areas such as the Canadian Food Mail Program; and
- Supporting systems that allow Indigenous families to access a standard health food basket at a cost of less than 25% of the available income.[182]

g) Housing

By the Government's own admission, there is 'a serious shortage of decent houses in remote NT communities.'[183] Key Government housing initiatives under the NTER, *Closing the Gap in the NT,* the agreement between the Federal and NT Governments and related policies are discussed above. In broad terms, these reforms include: additional investment in housing construction and repairs directed to growth towns (plus limited investment in related infrastructure), the cessation of funding for new housing to homeland communities, the transfer of housing stock and management responsibility from Aboriginal housing organisations to the NT Government and compulsory 5 year leases over land.

Housing needs in the Northern Territory

The level of housing need in NT communities remains extremely high and an ongoing commitment to fund services and infrastructure is essential to address decades of under-investment and neglect.

Having regard to a range of housing need indicia, the statistics are telling. In 2006 the NT is estimated to have had:

- of all the States and Territories, the highest proportion of primary homelessness amongst Indigenous peoples, more than four times the rate of primary homelessness of non-Indigenous people in the NT[184];

- of all the States and Territories, the highest proportion of moderately overcrowded households amongst Indigenous households (39%), and the highest

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[181] Senate Select Committee on Regional and Remote Communities, 2010 at 13.
[182] CLC, 2009 at 1.
[183] Stronger Futures at 22.
[184] Australian Institute of Health and Welfare (AIHW), *Indigenous housing needs 2009: A multi-measure needs model,* October 2009, at 10.

proportion of highly overcrowded households (25%, versus a rate of 1% for non-Indigenous people in the NT) [185];

• a high proportion of Indigenous households experiencing housing stress (where rent or mortgage payments exceed 30% of income). Specifically, 26.6% of Indigenous "income units"[186] receiving Commonwealth Rent Assistance ("CRA"), and 59.4% of Indigenous income units without CRA, experienced difficulties in housing affordability.[187]

Further as at 30 June 2008, there were an estimated 292 Indigenous community housing dwellings in the NT not connected to an organised supply for water, 396 dwellings not connected to an organised supply of sewerage, and a further 334 dwellings not connected to an organised supply of electricity.[188] These figures represent almost all such dwellings across Australia.

The Australian Institute of Health and Welfare (AIHW) determined that of all the States and Territories, the NT required the largest number (3,360) dwellings required to meet "extreme need".[189] When measured in terms of "all need", the figure rises to 3,991 homes.[190]

The way forward:

While *Stronger Futures* restates the Government's commitment to building and repairing housing as a 'top order priority', it also signals its intention to continue along its current reform trajectory. To this end, *Stronger Futures* outlines a number of possible housing policy future directions, including:

• Continuing tenancy management reforms;
• Increasing housing stock and quality;
• Whole-of-township leases; and
• Encouraging greater private home ownership and community sector involvement in housing.

ANTaR welcomes the Government's consideration of a possible expansion in the role of Aboriginal community housing providers in the NT. As noted above, recent reforms have severely undermined the Aboriginal community housing sector, with the loss of two-

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[185] Ibid at 20-21.
[186] An income unit is defined as either a single person or a couple with or without dependants.
[187] AIHW, 2009 at 24.
[188] Ibid at 34.
[189] Ibid at 42. In its report into Indigenous housing needs in 2009, the *Australian Institute of Health and Welfare* ("AIHW") utilized these estimates to consider housing need on two levels: "Extreme need" refers to the number of dwellings needed to address primary and secondary homelessness, households that require two or more extra bedrooms, low-income households paying more than 50% of household income in rent and all dwellings requiring replacement. "All need" refers the number of dwellings needed to address primary, secondary and tertiary homelessness, households that require one or more extra bedrooms, low-income households paying more than 30% of household income in rent and all dwellings requiring replacement.
[190] Ibid.

thirds of the Indigenous Community Housing Organisations (ICHO) in the NT since 2009.

Although some progress has been made towards addressing housing need through the National Partnership Agreement on Remote Indigenous Housing, only a limited number of communities are currently scheduled to receive new housing and homeland communities have been excluded from any further new housing. As APO NT highlighted in its recent response to *Stronger Futures,* current housing funding extends only to 2013 and targets a small number of locations through the 'priority communities' model.[191] ANTaR seeks a bipartisan commitment to sustained investment in NT communities to meet housing needs, recognising that needs, if not met, will grow even more acute as the Aboriginal population grows. There is also a critical need for ongoing funding for the maintenance of existing housing stock. Without such funding, the deterioration in housing stock will present health and safety risks to residents and result in capital depreciation.

We also support APO NT's housing and tenure proposals, in particular for the Commonwealth Government to:

- Pay 'fair rent' for 5 year leases and just terms compensation;
- Work with NT land councils to transition from compulsory to voluntary leasing arrangements;
- Revisit its secure tenure policy to respect Aboriginal property rights and decision-making processes;
- Reset its housing policy strategy with the objective of creating a diverse NT housing sector including public and Aboriginal housing providers and exploring leasing arrangements to facilitate an increase in home ownership with NT land councils.

Finally, in recognition of the housing implications of homelands reforms, ANTaR supports calls for the review of the Working Futures policy and development of future homelands policy which ensures the active participation of representative leaders from homeland communities.

h) Governance

Stronger Futures acknowledges that sustainable development will only be possible when Aboriginal people 'have a clear say about what is happening in their communities'. It also expresses a commitment to local capacity building and better cross-government coordination. ANTaR is encouraged by this, but believes that in order to effectively pursue such goals, there must be important changes in current policy and development approaches.

Stronger Futures outlines the measures Government has undertaken to strengthen communities. These are:

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[191] APO NT, 2011 at 37.

- Indigenous Leadership Programs;
- A strong government presence in Aboriginal communities through GBMs and Indigenous Engagement Officers;
- Better remote service delivery through Local Implementation Plans;
- Business Management Area Powers; and
- Shire Councils.

It reiterates its ongoing support for shire reforms and the placement of government employees in remote communities to monitor service delivery.

A key problem with a number of these initiatives is their focus on increasing the presence of 'government in communities' rather than building community capacity for sustainable long-term governance. [192] The extraordinary Business Management Area Powers together with the deployment of GBMs and Indigenous Engagement Officers grant the Federal and NT governments sweeping and unwarranted control over Aboriginal communities. Government is able to direct local organisations, seize their assets and fire staff, effectively disempowering them. Furthermore, the 2008 NTER Review reported that while a small number of GBMs had overseas community development experience and sought to engage with local communities, many had 'no experience of living in Aboriginal communities in the Northern Territory' and no 'professional community development training'.[193]

The Review also spoke of many GBMs failing to understand and engage with local community governance structures, describing how the Board:

> 'met GBMs who had remained distant and apart from the community and, in some cases, from the key local service providers. In one case the Board found it necessary to introduce the GBM to senior staff at the health clinic'[194]

The Board concluded that if GBMs are to play an effective role in the NT, a more constructive relationship must be achieved, based on genuine engagement with Aboriginal people and a community development framework.[195]

As discussed above, ANTaR is also very concerned that Shire Council reforms have reduced representation and participation of Aboriginal people in governing their own communities.

While ANTaR welcomes the Government's recognition that there is a need for more coordinated and targeted remote service delivery, community participation and understanding must be elevated if shires are to succeed in this task. ANTaR agrees with the statement in *Stronger Futures* that there is a crucial need to 'improve the way government staff interact with communities on the policies, programs and services which affect the lives of local Indigenous people'.

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[192] CLC, 2010 at 57.
[193] Yu, Duncan and Gray, 2008 at 44.
[194] Ibid.
[195] Ibid at 44-45.

A Community Development Approach to Governance:

It is now widely recognised that governance capability is at the heart of sustainable Indigenous socioeconomic development.[196] Capacity development, which involves strengthening 'the capabilities of people, groups, organisations and whole societies to reach their own goals over time,'[197] must therefore be vital to Indigenous policy.

A key criticism posed by the 2010 Review of Indigenous Expenditure was that all too often, programs offer 'little more than temporary respite' from the symptoms they are designed to treat.[198] Significantly, research shows that capacity development is an effective long-term approach.[199] It involves targeting funding towards bolstering and working in partnership with community-run organisations and sustainable local initiatives, rather than short term political fixes. Its core focus is on developing the skills, capacities, local knowledge and relationships that Aboriginal people need to make the generational shift from dependence to self-reliance.

Currently, there is no local organ of decision making power that allows Aboriginal people to participate in their own development. Additionally, government initiatives are not geared toward genuine governance capacity development. In order for this to shift, there must be a significant change in the government policies and programs that frame the way Aboriginal institutions and communities operate, and limit their powers.[200]

Research shows that this requires top-level support from government, including the provision of adequate funding, effective locally-administered service delivery, and bureaucratic assistance and collaboration.[201] Equally, there needs to be agreement among governments, Aboriginal people and local governing institutions about desirable governance capabilities and priorities.[202] As has already been highlighted, this is essential if governance structures are to have legitimacy in the eyes of those they seek to govern. Genuine partnership and negotiation with Aboriginal communities is essential to achieving agreement.

Stronger Futures notes the importance of community capacity and leadership, but it also emphasises government-led solutions. A genuine commitment to community capacity and partnership means moving beyond mere consultation. It involves the government supporting Aboriginal people to develop the capabilities, and allowing them the opportunity, to identify their own issues and design their own solutions. Furthermore, it involves the government investing in and providing coordinated logistical support to these solutions.

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[196] Janet Hunt and Dianne Smith, 2006*, Indigenous Community Governance Project: Preliminary Research. Findings* at 50. Also see Cornell 2006.
[197] Hunt and Smith, 2006 at 50.
[198] Department of Finance and Deregulation, 2010 at 12.
[199] See Hunt and Smith 2006 and Cornell 2006.
[200] Hunt 2005 at 26.
[201] Hunt and Smith, 2006 at 52.
[202] Cornell, 2006 at 13 and Hunt and Smith, 2006 at 52.

Additionally, government needs to assist communities to develop effective governing institutions of their own. Rather than directing funding towards creating new institutions, it should seek to invigorate and assist existing local initiatives. Where new Institutions and structures are necessary, they must have local support and ownership.

This is not a short-term project and the government has a vital role. But the existing top-down policy environment must by replaced by a community-centered approach if Aboriginal people are to develop the capabilities necessary to govern their own communities well.

The way forward:

ANTaR recommends that the Government:

- Support and invest in needs-based, community-controlled governance models rooted in the values and aspirations of individual communities;
- Commit sufficient funding and resources, and appropriate training and ongoing support, to develop local capacity and ensure long-term sustainable development;
- Acknowledge and build on existing successful community leadership structures; and
- Urgently increase and strengthen community participation and engagement with government both on the ground and within policy development processes.

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