



# We can and must do better

ANTaR 2016 Election Statement on Aboriginal and Torres Strait  
Islander Affairs

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# We can and must do better

*"Social justice is what faces you in the morning. It is awakening in a house with adequate water supply, cooking facilities and sanitation. It is the ability to nourish your children and send them to school where their education not only equips them for employment but reinforces their knowledge and understanding of their cultural inheritance. It is the prospect of genuine employment and good health: a life of choices and opportunity, free from discrimination."*

*Mick Dodson, Annual Report of the Aboriginal and Torres Strait Islander Social Justice Commissioner, 1993.*

Aboriginal and Torres Strait Islander people are the most disadvantaged group in Australia across almost every social and economic indicator.

This disadvantage is an indictment on successive governments' lack of commitment to Aboriginal and Torres Strait Islander rights and their failure to forge respectful and just relationships of engagement with First Peoples.

It is well past time that we do better than this as a nation.

An incoming government must urgently forge a new approach with Aboriginal and Torres Strait Islander people. An approach that places addressing Aboriginal and Torres Strait Islander disadvantage at the centre of national priorities, with First Peoples voice as the driving force behind change.

ANTaR stands with, and supports, the Aboriginal and Torres Strait Islander Peak Representative bodies who united on June 9 2016 to call for a more just approach to Aboriginal and Torres Strait Islander Affairs. As a signatory to the Redfern Statement made by those organisations, we join them in expressing deep concern:

*that in 2016 First Peoples continue to experience unacceptable disadvantage;*

*that the challenges confronting Aboriginal and Torres Strait Islander people continue to be isolated to the margins of the national debate;*

*that Federal Government policies continue to be made for and to, rather than with, Aboriginal and Torres Strait Islander people; and*

*that the transformative opportunities for Government action are yet to be grasped.*

A steadfast adherence to the pursuit of human rights for First Peoples would not have allowed the continuation of these circumstances. But despite declaring its support to the United Nations Declaration on the Rights of Indigenous Peoples in 2009, the Australian Government is yet to revise laws and policies to fully recognise and protect the rights of Aboriginal and Torres Strait Islander peoples across the nation.<sup>1</sup>

Overcoming disadvantage and countering social and economic inequality is bound up with principles of self determination. Principles that frame the notion of First Peoples having the power to decide their own future, communities having the power to design and own solutions and to be visionaries for proud continuing living cultures.<sup>2</sup>

In this election year we call on the Australian Government to develop, in genuine partnership with Aboriginal and Torres Strait Islander (ATSI) people, a National Strategy to give effect to the UN Declaration on the Rights of Indigenous Peoples; include the Declaration in the definition of human rights in the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth); and review existing legislation, policies and programmes for conformity with the Declaration.

Below we set out a platform of action for government across a range of areas. These have been called for by First Peoples and must be taken up by government in partnership with Aboriginal and Torres Strait Islander people.

ANTaR has set out this platform, based on clear calls from Aboriginal and Torres Strait Islander organisations, to make clear to an incoming government what must be done. We will be taking it to government, engaging with our supporters on it, and continuing to steadfastly stand with Aboriginal and Torres Strait Islander people for justice, rights and respect.

I urge all of our supporters and those wanting to turn around the unacceptable disadvantage experienced by First Peoples and build a nation on more just foundations, to engage with this platform, become a Sea of Hands Campaigner this election and into the next term of parliament, and make a difference.

Yours in solidarity,

Andrew Meehan  
National Director

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<sup>1</sup> Australian Human Rights Commission *Universal Periodic Review Fact Sheet - Aboriginal and Torres Strait Islander People* accessed <https://www.humanrights.gov.au/sites/default/files/5.%20Aboriginal%20and%20Torres%20Strait%20Islander%20peoples%20Final.pdf>

<sup>2</sup> Behrendt, L *Indigenous Self Determination Rethinking the relationship between rights and economic development* accessed <http://www.austlii.edu.au/au/journals/UNSWLJ/2001/70.html>

# Representation and Engagement

## Context

The United Nation Declaration on the rights of Indigenous peoples clearly sets out the right of Indigenous peoples to participate in decision-making in matters which would affect their rights through chosen representatives. This includes the right to develop their own Indigenous decision-making institutions and procedures for selection of their own representatives.

As a signatory to the Declaration, the Australian Government is obligated to co-operate in good faith with Aboriginal and Torres Strait Islander peoples chosen representatives to ensure:

- free, prior and informed consent on legislative and policy measures that affect them
- empowerment over the the right to development including determining priorities
- engagement in design, delivery and evaluation of policies that affect them <sup>3</sup>

Despite commitments made and some steps taken in the right direction, including the establishment of a national representative body - National Congress of Australia's First Peoples, consecutive Governments have failed at meeting their obligations under the UN Declaration on the Rights of Indigenous Peoples to support self determination and effectively engage with Aboriginal and Torres Strait Islander people.

## Current situation

In recent years, radical changes of administrative arrangements in Indigenous Affairs and how government funds organisations has resulted in great upheaval and uncertainty, in no small part as a result of a complete lack of engagement with Aboriginal and Torres Strait Islander people about the changes.

The major sector-wide policy reform of shifting to the Indigenous Advancement Strategy took place with little or no input from Aboriginal and Torres Strait Islander people, their representatives, and organisations. This lack of consultation and engagement by Government has significantly undermined Aboriginal and Torres Strait Islander peoples right to self determination, and resulted in poor policy outcomes.[6]

Disempowerment has been further exacerbated by the removal of funds to Aboriginal and Torres Strait Islander peak bodies tasked with advocating for First Peoples. The previous two Federal Budgets saw the national representative body - National Congress of Australia's First Peoples defunded. Sector peaks including National Aboriginal and Torres Strait Islander Legal Services and the National Family Violence Prevention Legal Services also

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<sup>3</sup> National Congress of Australia's First Peoples - *Submission to the Senate Standing Committees on Finance and Public Administration Inquiry into the Commonwealth Indigenous Advancement Strategy Tendering Processes*

had significant budget cuts. These organisations are in the best position to represent the diverse needs of Aboriginal and Torres Strait Islander people and play a pivotal linking role between governments and Aboriginal and Torres Strait Islander communities. There are also significant gaps in representative bodies at a national level in education, employment and housing which constitute major priority areas of focus.

“It is critical that Australia’s First Peoples are properly represented at the national level to ensure meaningful engagement with Government, industry and the non-government sectors to advance the priorities of our people.”<sup>4</sup>

We call on the next Federal Government to commit to:

- 1. Restoration of funding to the National Congress of Australia’s First Peoples**
- 2. A national Aboriginal and Torres Strait Islander representative body for Education**
- 3. A national Aboriginal and Torres Strait Islander representative body for Employment**
- 4. A national Aboriginal and Torres Strait Islander representative body for Housing**

### **1. Restoration of funding to the National Congress of Australia’s First Peoples**

The National Congress of Australia’s First Peoples (Congress) was established in 2010 to be the representative voice of Aboriginal and Torres Strait Islander peoples and to advocate for positive change. The decision to defund Congress, just as it is beginning to emerge as a unifying element among Aboriginal and Torres Strait Islander groups, is a mistake.

Without support, Congress’ ability to do its job of representing Aboriginal and Torres Strait Islander interests is severely compromised. Congress must be supported to provide a mechanism to engage with our people, develop policy, and advocate to Government. Congress should be supported to reach sustainability and independence as soon as possible.

### **2. A national Aboriginal and Torres Strait Islander representative body for Education**

Although there are many good quality Aboriginal and Torres Strait Islander organisations, and strong leaders, working at the State and local level in the education sector, there is currently no national body to promote and engage in education policy for Australia’s First Peoples.

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<sup>4</sup> 2016 “*The Redfern Statement*” Aboriginal and Torres Strait Islander Peak Bodies

The education sector is fragmented across early childhood, primary and secondary education, vocational education and training, and higher education, with each of state and territory having public, catholic and private school systems. In the absence of a single national education voice for Aboriginal and Torres Strait Islander people, Congress has been active in coordinating and promoting unity across these sectors. Congress has consulted widely with its members, educators and organisations, many of which have a long history of working in this area.

We call on the next Federal Government to establish a national body that can call for policies support Aboriginal and Torres Strait Islander students and communities across all of these educational systems.

### **3. A national Aboriginal and Torres Strait Islander representative body for Employment**

The highly disadvantaged employment and income status of Aboriginal and Torres Strait Islander peoples is well documented. While we appreciate attempts at advancing opportunities for Aboriginal 9 Meaningful Engagement and Torres Strait Islander peoples, the many issues around employment require a unified and expert voice.

Beyond skills training, mentoring and targeted employment services to enhance the job readiness of Aboriginal and Torres Strait Islander peoples, concerted effort needs to be directed to creating jobs that are suitable and meaningful for our people. This is of particular concern in remote areas, where mainstream commercial and labour market opportunities are limited. In urban and rural areas, Aboriginal and Torres Strait Islander people are faced with issues of racism and discrimination in the workplace.

The next Federal Government should establish and fund a national representative body of Aboriginal and Torres Strait Islander leaders to drive employment and economic solutions for our people, in order to:

- Work with our communities to develop their own strategies for economic development, and promote community participation and management;
- Promote strategies to create Aboriginal and Torres Strait Islander-friendly workplaces; and
- Work with Government to design welfare policy that encourages, rather than coerces, Aboriginal and Torres Strait Islander peoples into employment.

### **4. A national Aboriginal and Torres Strait Islander representative body for Housing**

Federal and State Government policies concerning Aboriginal and Torres Strait Islander housing is currently disjointed, wasteful and failing. For example, Aboriginal and Torres Strait Islander people in urban and regional markets face many barriers in accessing and securing safe and affordable housing, including discrimination and poverty.



The next Federal Parliament should support the development of a national representative body of Aboriginal and Torres Strait Islander leaders who can focus on housing security for Aboriginal and Torres Strait Islander peoples, and:

- Advocate for the ongoing support for remote communities to prevent community closures;
- Work with communities to develop a national Aboriginal and Torres Strait Islander housing strategy, with the aim of improving the housing outcomes for our people across all forms of housing tenure; and
- Provide culturally appropriate rental, mortgage and financial literacy advice.<sup>5</sup>

## Health Equality

### Context

Closing the gap in health equality between Aboriginal and Torres Strait Islander people and other Australians is an agreed national priority. All major political parties have signed the Close the Gap Statement of Intent as a commitment to work together to achieve equality in health status and life expectancy between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians by year 2030.

This includes a commitment to

- close the fundamental divide between the health outcomes and life expectancy of the Aboriginal and Torres Strait Islander peoples of Australia and non-Indigenous Australians.
- ensure that Aboriginal and Torres Strait Islander peoples have equal life chances to all other Australians.
- ensure Aboriginal and Torres Strait Islander peoples have access to health services that are equal in standard to those enjoyed by other Australians and enjoy living conditions that support their social, emotional and cultural well-being.
- ensure that Aboriginal and Torres Strait Islander peoples are actively involved in the design, delivery and control of these services.

Closing the life expectancy gap between Aboriginal and Torres Strait Islander People and other Australians is a national priority with over 220,000 Australians having signed the Close the Gap pledge, committing to seeing the gap closed in this generation – by 2030.

In the past 10 years there has been a significant 16% decline in the mortality rate for Aboriginal and Torres Strait Islander peoples and a 15% narrowing of the gap with non-Indigenous people between 1998 and 2013, 40% decline in the circulatory disease mortality rates for Aboriginal and Torres Strait Islander peoples between 1998 and 2012, a

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<sup>5</sup> 2016 “*The Redfern Statement*” Aboriginal Peak Bodies

decline of 31% in child mortality rates for Aboriginal and Torres Strait Islander children and a significant 35% narrowing of the gap with non-Indigenous children between 1998 and 2013.<sup>6</sup>

These early statistics indicate slow some early improvements, but still a relative small gain in the goal of closing the gap.

### Current situation

As reported in the 2015 *Progress and Priorities Report*, there is still tremendous effort and resources needed if Aboriginal and Torres Strait Islander life expectancy equality is to be achieved by 2030.

Life expectancy for Aboriginal and Torres Strait Islander people is still 10 years less than non indigenous people with Aboriginal and Torres Strait Islander people being 3 times more likely to die from heart disease<sup>7</sup>, 1.5 times more likely to die from cancer<sup>8</sup> and 5.4 times to die from diabetes related causes.<sup>9</sup> Of deaths due to external causes suicide was the leading cause of death accounting for 32% of such deaths.

The National Aboriginal and Torres Strait Islander Health Plan and its implementation plan developed in partnership with the National Aboriginal and Torres Strait Islander Health Leadership Forum lays out a robust plan for addressing this health crisis.

Specifically the plan makes note of the essential role of the Community Controlled Health Sector and the ongoing need to ensure the strength of this sector as a key player in closing the life expectancy gap and the need for a health system free of racism.<sup>10</sup>

The Close the Gap Campaign have identified the need for a specific focus on the needs of First Peoples living with a disability or cognitive impairment. As reported in the 2015 Aboriginal and Torres Strait Islander Social Justice Report, an Aboriginal and Torres Strait Islander person living with a disability or cognitive impairment experiences heightened socio economic disadvantage, decreased access to education, employment and access to health.

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<sup>6</sup> DPMC *Health Performance Framework 2014* accessed <https://www.dpmc.gov.au/sites/default/files/publications/indigenous/Health-Performance-Framework-2014/aboriginal-and-torres-strait-islander-health-performance-framework-2014-report/key-findings.html>

<sup>7</sup> Australian Institute of Health and Welfare *Cardiovascular disease and its associated risk factors in Aboriginal and Torres Strait Islander peoples 2004–05* accessed <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=6442455071>

<sup>8</sup> Australian Institute of Health and Welfare *Cancer in Aboriginal and Torres Strait Islander peoples of Australia: an overview 2013* accessed <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129544698>

<sup>9</sup> Australian Institute of Health and Welfare *Diabetes Deaths webpage* <http://www.aihw.gov.au/diabetes-indicators/deaths/>

<sup>10</sup> National Aboriginal and Torres Strait Islander Health Plan

Acknowledging that Aboriginal and Torres Strait Islander Australians experience higher rates of disability than do other Australians, the National Disability Strategy identifies the need for the Closing the Gap agreements to address the needs of Aboriginal and Torres Strait Islander people with disability as an area for future action.<sup>11</sup> It is essential in the delivery of this strategy that First Peoples are adequately supported through the National Disability Insurance Scheme.

In this election year ANTaR calls on all parties to commit to ensuring long-term, sustainable funding that allows for appropriate planning, implementation, monitoring and evaluation.

We call on the next Federal Government to commit to:

- 1. Restoration of funding**
- 2. Fund the Implementation Plan for the National Aboriginal and Torres Strait Islander Health Plan (2013–2023)**
- 3. Make Aboriginal Community Controlled Services (ACCHS) the preferred providers**
- 4. Create guidelines for Primary Health Networks**
- 5. Resume indexation of the Medicare rebate, to relieve profound pressure on ACCHS**
- 6. Reform of the Indigenous Advancement Strategy**
- 7. Fund an Implementation Plan for the National Aboriginal and Torres Strait Islander Suicide Prevention Strategy**
- 8. Develop a long-term National Aboriginal and Torres Strait Islander Social Determinants of Health Strategy**

### **1. Restoration of funding**

The 2014 Federal Budget was a disaster for Aboriginal and Torres Strait Islander people. This is not an area where austerity measures will help alleviate the disparity in health outcomes for Australia's First Peoples.

The current funding for Aboriginal health services is inequitable. Funding must be related to population or health need, indexed for growth in service demand or inflation, and needs to

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<sup>11</sup> COAG *National Disability Strategy* accessed [https://www.coag.gov.au/sites/default/files/national\\_disability\\_strategy\\_2010-2020.pdf](https://www.coag.gov.au/sites/default/files/national_disability_strategy_2010-2020.pdf)

be put on a rational, equitable basis to support the Implementation Plan for the National Aboriginal and Torres Strait Islander Health Plan (2013–2023).

## **2. Fund the Implementation Plan for the National Aboriginal and Torres Strait Islander Health Plan (2013–2023)**

Future Budgets must adequately resource the Implementation Plan's application and operation. As a multi-partisan supported program, the Implementation Plan is essential for driving progress towards the provision of the best possible outcomes from investment in health and related services.

## **3. Make Aboriginal Community Controlled Services (ACCHS) the preferred providers**

ACCHS should be considered the 'preferred providers' for health services for Aboriginal and Torres Strait Islander people. Where there is no existing ACCHS in place, capacity should be built within existing ACCHS to extend their services to the identified areas of need. This could include training and capacity development of existing services to consider the Institute of Urban Indigenous Health strategy to self-fund new services. Where it is appropriate for mainstream providers to deliver a service, they should be looking to partner with ACCHS to better reach the communities in need.

## **4. Create guidelines for Primary Health Networks**

The next Federal Government should ensure that the Primary Health Networks (PHNs) engage with ACCHS and Indigenous health experts to ensure the best primary health care is delivered in a culturally safe manner. There should be mandated formal agreements between PHNs and ACCHS to ensure Aboriginal and Torres Strait Islander leadership.

## **5. Resume indexation of the Medicare rebate, to relieve profound pressure on ACCHS**

The pausing of the Medicare rebate has adversely and disproportionately affected Aboriginal and Torres Strait Islander people and their ability to afford and access the required medical care. The incoming Federal Government should immediately resume indexation of Medicare to relieve the profound pressure on ACCHS.

## **6. Reform of the Indigenous Advancement Strategy**

The issues with the Indigenous Advancement Strategy (IAS) are well known. The recent Senate Finance and Public Administration Committee Report into the tendering processes highlighted significant problems with the IAS programme from application and tendering to grant selection and rollout. The next Federal Government must fix the IAS as an immediate priority and restore the funding that has been stripped from key services through the flawed tendering process.

## **7. Fund an Implementation Plan for the National Aboriginal and Torres Strait Islander Suicide Prevention Strategy**

The National Aboriginal and Torres Strait Islander Suicide Prevention Strategy encompasses Aboriginal and Torres Strait Islander peoples' holistic view of mental health, as well as physical, cultural and spiritual health, and has an early intervention focus that works to build strong communities through more community-focused and integrated approaches to suicide prevention. The Strategy requires a considered Implementation Plan with Government support to genuinely engage with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to develop local, culturally appropriate strategies to identify and respond to those most at risk within our communities.

## **8. Develop a long-term National Aboriginal and Torres Strait Islander Social Determinants of Health Strategy**

The siloed approach to strategy and planning for the issues that Aboriginal and Torres Strait Islander people face is a barrier to improvement. Whilst absolutely critical to closing the gap, the social determinants of health and wellbeing – from housing, education, employment and community support – are not adequately or comprehensively addressed.

The next Federal Government must prioritise the development of a National Aboriginal and Torres Strait Islander Social Determinants of Health Strategy that takes a broader, holistic look at the elements to health and wellbeing for Australia's First Peoples. The Strategy must be developed in partnership with Aboriginal and Torres Strait Islander people through their peak organisations.<sup>12</sup>

# Addressing disability for Aboriginal and Torres Strait Islander people

## Context

Aboriginal and Torres Strait Islander people with disability are amongst the most marginalised in Australian society. It is estimated that approximately 45 per cent of Aboriginal and Torres Strait Islander people identify as having some form of disability, with 9.1 per cent having severe and profound disability.

## Current situation

Despite the high prevalence of disability, policy attention which is sensitive to the unique circumstances of Aboriginal and Torres Strait Islander people with disability has been negligible. Further, there is currently little investment in research and data to address the

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<sup>12</sup> 2016 "The Redfern Statement" Aboriginal Peak Bodies

gaps in understanding, which presents a significant risk to the implementation of the National Disability Insurance Scheme (NDIS) in Aboriginal and Torres Strait Islander communities.

We call on the next Federal Government to commit to:

- 1. Work to address intersectional discrimination**
- 2. Equitable access to the NDIS by Aboriginal and Torres Strait Islander people**
- 3. Establish disability access targets as part of the Closing the Gap framework and the NDIS Quality Assurance and Outcomes framework**
- 4. Invest in research and development to build an evidence-base of data**
- 5. Address the imprisonment rates of Aboriginal and Torres Strait Islander people with a cognitive or psychosocial disability**
- 6. Fund training and community leadership initiatives**

#### **1. Work to address intersectional discrimination**

There is a need to address the unique circumstances which lead to systemic disadvantage for people who are both Aboriginal or Torres Strait Islander and have disability in all Government policies under the Indigenous Advancement Strategy and National Disability Strategy.

#### **2. Equitable access to the NDIS by Aboriginal and Torres Strait Islander people**

It is vital that the roll-out of the NDIS includes investment in adequate resources to allow for community-led solutions that understand and respond to the complex social circumstances affecting Aboriginal and Torres Strait Islander people with disability.

#### **3. Establish disability access targets as part of the Closing the Gap framework and the NDIS Quality Assurance and Outcomes framework**

The establishment of targets would enable monitoring of the NDIS, to ensure equitable access for Aboriginal and Torres Strait Islander people.

#### **4. Invest in research and development to build an evidence-base of data**

Investment in a strong evidence-base would support innovations in the Aboriginal and Torres Strait Islander disability sector and enable effective evaluation of its social impact.

## **5. Address the imprisonment rates of Aboriginal and Torres Strait Islander people with a cognitive or psychosocial disability**

A high number of Aboriginal and Torres Strait Islander people in the prison system have a form of disability. Government should resource a therapeutic model of justice for people with cognitive and psychosocial disability.

## **6. Fund training and community leadership initiatives**

This training would empower regional and remote communities to conduct a self-directed need, capacity and infrastructure analysis of disability supports and solutions.<sup>13</sup>

# Changing the record on Aboriginal and Torres Strait Islander incarceration and violence

## Context

25 years ago The Royal Commission into Aboriginal Deaths in Custody reported on their investigation into 99 deaths that occurred in custody between 1 January 1980 and 31 May 1989. The Commission found that the reason such an unacceptable number of First Peoples were dying in custody was the overwhelmingly disproportionate rate at which Aboriginal people come into custody, compared with the rate of the general community.<sup>14</sup>

In 2011 the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs noted that despite the length of time since the Royal Commission that incarceration rates of Aboriginal and Torres Strait Islander Australians particularly youth had worsened.<sup>15</sup>

A generation on and incarceration rates have reached epidemic proportions with high rates of incarceration and over-representation of Aboriginal and Torres Strait Islander people in the justice system being brought to the fore by Change the Record<sup>16</sup> and others. The nation has failed to heed the recommendations of the Royal Commission into Aboriginal Deaths in custody 25 years earlier and as a result we have lost another generation of Aboriginal and Torres Strait Islander people to the justice system.

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<sup>13</sup> 2016 *"The Redfern Statement"* Aboriginal Peak Bodies

<sup>14</sup> *Royal Commission into Aboriginal Deaths in Custody* accessed <http://www.austlii.edu.au/au/other/IndigLRes/rciadic/national/vol1/>

<sup>15</sup> House Standing Committee on Aboriginal Affairs *Doing Time - Time For Doing: Indigenous youth in the criminal justice system* accessed [http://www.aph.gov.au/parliamentary\\_business/committees/house\\_of\\_representatives\\_committees?url=atsia/sentencing/report.htm](http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=atsia/sentencing/report.htm)

<sup>16</sup> Change the Record Coalition *A Blueprint for Change* [https://antar.org.au/sites/default/files/change\\_the\\_record\\_blueprint\\_web-2.pdf](https://antar.org.au/sites/default/files/change_the_record_blueprint_web-2.pdf)

Involvement in the child protection system and family violence are two of the clearest indicators of people who are more likely to end up in the criminal justice system. Family violence causes extreme and long-lasting harm to Aboriginal and Torres Strait Islander people at vastly disproportionate rates to the rest of the community. It harms Aboriginal and Torres Strait Islander children, for whom family violence is the leading cause of being taken into out of home care and harms Aboriginal and Torres Strait Islander communities, through intergenerational cycles of trauma and victimisation.<sup>17, 18</sup>

### Current situation

Aboriginal and Torres Strait Islander people comprise 3% of the Australian population and yet they make up 27% of the total prison population, that is an imprisonment rate 13 times higher than the non-indigenous rate and Aboriginal and Torres Strait Islander women, who are 34 times more likely to be hospitalised for family violence than non- Aboriginal women.<sup>19</sup>

In the past 10 years we have seen an 88% increase in the number of Aboriginal and Torres Strait Islander people in prison. Between 2001 and 2010, the imprisonment rate for Aboriginal and Torres Strait Islander women increased by 59% and Aboriginal and Torres Strait Islander men by 35%. Aboriginal and Torres Strait Islander women now represent the fastest growing prison population in Australia.<sup>20</sup>

The underlying driving factors of crime are varied and complex. Evidence has demonstrated that individuals who come into contact with the criminal justice system are highly likely to experience multiple characteristics of severe social and economic disadvantage.<sup>21</sup>

Violence against Aboriginal and Torres Strait Islander women and children devastates communities and destroys families. In comparison with other women, Aboriginal and Torres Strait Islander women are 34 times more likely to be hospitalised from family violence and 10 times more likely to be killed as a result of violent assault.<sup>22</sup>

Evidence suggests that Justice Reinvestment is a positive policy solution to the problem of over-representation of Aboriginal and Torres Strait Islander people in the criminal justice

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<sup>17</sup> Change the Record Coalition *A Blueprint for Change*  
[https://antar.org.au/sites/default/files/change\\_the\\_record\\_blueprint\\_web-2.pdf](https://antar.org.au/sites/default/files/change_the_record_blueprint_web-2.pdf)

<sup>18</sup> National Family Violence Prevention Legal Services *Pre Budget Submission*

<sup>19</sup> Change the Record Coalition *A Blueprint for Change*  
[https://antar.org.au/sites/default/files/change\\_the\\_record\\_blueprint\\_web-2.pdf](https://antar.org.au/sites/default/files/change_the_record_blueprint_web-2.pdf)

<sup>20</sup> Change the Record Coalition *A Blueprint for Change*  
[https://antar.org.au/sites/default/files/change\\_the\\_record\\_blueprint\\_web-2.pdf](https://antar.org.au/sites/default/files/change_the_record_blueprint_web-2.pdf)

<sup>21</sup> Senate Standing Committee on Legal and Constitutional Affairs *Value of a justice reinvestment approach to criminal justice in Australia Inquiry Report* accessed  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed\\_inquiries/2010-13/justicereinvestment/report/c02](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2010-13/justicereinvestment/report/c02)

<sup>22</sup> 2016 *The Redfern Statement* Aboriginal and Torres Strait Islander Peak Bodies



system, based on the sound principles of being driven by data and informed by local community solutions.

Changing the record on Aboriginal and Torres Strait Islander peoples' imprisonment rates, and experience of violence, requires federal leadership, and a national approach to drive co-ordinated action across the country.

We call on the next Federal Government to commit to:

- 1. Adopt justice targets as part of the Close the Gap framework**
- 2. Adequately fund Aboriginal and Torres Strait Islander Community Controlled front-line legal services**
- 3. Adopt the recommendations of the Change the Record Coalition's Blueprint for Change**
- 4. Commit to implementing wrap-around service delivery models that seek to address and prevent the issues that underlie the legal problems facing women, children and families**
- 5. Reform the Indigenous Advancement Strategy (IAS) program**
- 6. Prioritise the implementation of the recommendations from the Royal Commission into Aboriginal Deaths in Custody Report**
- 7. Urgently reform laws that have a disproportionate impact on Aboriginal and Torres Strait Islander communities**
- 8. Develop in partnership with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies a truly cooperative intergovernmental framework**
- 9. Engage Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to achieve Indigenous participation in, and equal access to, alternatives to imprisonment**
- 10. Ratify the Optional Protocol to the Convention against Torture (OPCAT)**
- 11. Implement the United Nations Declaration on the Rights of Indigenous Peoples**
- 12. A national/intergovernmental agency to identify a national justice data set for collection by all State and Territory Governments**

**13. Adequately fund the National Aboriginal and Torres Strait Islander Legal Services program as the national peak representative body for the ATSILS.<sup>23</sup>**

**1. Adopt justice targets as part of the Close the Gap framework**

Currently the Safer Communities Building Block of the COAG Closing the Gap Strategy is the only area that is not accompanied by any specific targets. This is a clear gap in the failure to acknowledge the root causes of imprisonment and violence rates, including social determinants such as poverty and socio-economic disadvantage.

**2. Adequately fund Aboriginal and Torres Strait Islander Community Controlled front-line legal services**

This should include immediately reversing planned funding cuts to ATSILS funding, due to come into effect in 2017, and investing in FVPLS to create funding certainty, and:

- Immediately injecting \$18.58 million into the Indigenous Legal Assistance Program per annum, and providing appropriate funding for FVPLS to urgently address unmet civil and family law needs of Aboriginal and Torres Strait Islander peoples;
- Supporting policy functions within peak Aboriginal and Torres Strait Islander organisations to allow Community Controlled Organisations with front-line service delivery expertise to inform policy development; and
- Committing to the development of an evidenced-based long term funding model for the ATSILS, FVPLS and the broader legal assistance sector to ensure funding is targeted at meeting the unmet legal needs of Aboriginal and Torres Strait Islander peoples.

**3. Adopt the recommendations of the Change the Record Coalition's Blueprint for Change**

This includes a commitment to supporting the development of community controlled justice reinvestment initiatives that can allow Aboriginal and Torres Strait Islander led solutions to dramatically turn around justice outcomes.

**4. Commit to implementing wrap-around service delivery models that seek to address and prevent the issues that underlie the legal problems facing women, children and families**

This should include a focus on the provision of social workers, housing support workers, financial counsellors, youth justice workers, and Aboriginal and Torres Strait Islander support workers, and:

- Prisoner Through Care programs in each state and territory to address the urgent need for culturally appropriate services to assist Aboriginal and Torres Strait Islander people reentering the community after a period in custody; and

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<sup>23</sup> 2016 "The Redfern Statement" Aboriginal Peak Bodies

- Immediate strategies to address the imprisonment of Aboriginal and Torres Strait Islander youths, women and those with cognitive and psychiatric disabilities.

## **5. Reform the Indigenous Advancement Strategy (IAS) program**

The IAS must place greater emphasis on listening and responding to the needs and concerns of Aboriginal and Torres Strait Islander communities, including the development of a separate (noncompetitive) round for funding Aboriginal and Torres Strait Islander Community Controlled Organisations

## **6. Prioritise the implementation of the recommendations from the Royal Commission into Aboriginal Deaths in Custody Report**

In 1991 the time of the Royal Commission into Aboriginal Deaths in Custody, Aboriginal and Torres Strait Islander people were 7 times more likely to be in prison, that figure in 2016 is now 13 times more likely.

## **7. Urgently reform laws that have a disproportionate impact on Aboriginal and Torres Strait Islander communities**

Harsher sentences and laws that strip judges of their ability to make the 'sentence fit the crime' such as mandatory sentencing and strict bail/parole laws need to be changed. Evidence-based sentencing and justice policy will contribute to reducing over-representation.

## **8. Develop in partnership with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies a truly cooperative intergovernmental framework**

A national intergovernmental framework should set down long, medium and short-term objectives and strategies to achieve them. This will strengthen the responsibility and accountability for Indigenous justice issues between different levels of Government.

## **9. Engage Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to achieve Indigenous participation in, and equal access to, alternatives to imprisonment**

Aboriginal and Torres Strait Islander communities, their organisations and representative bodies are best placed to develop and implement culturally appropriate services that have the support of the community. This could include, for example, developing culturally appropriate diversion options instead of custodial sentences, except where the offender is a risk to the community.

## **10. Ratify the Optional Protocol to the Convention against Torture (OPCAT)**

The ratification of OPCAT would, amongst other things, ensure that places of detention at the state, territory and federal level meet appropriate standards, in line with international best practice.

## **11. Implement the United Nations Declaration on the Rights of Indigenous Peoples**

A framework should be developed to implement and raise awareness about the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in consultation with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies.

## **12. A national/intergovernmental agency to identify a national justice data set for collection by all State and Territory Governments**

This agency should include Aboriginal and Torres Strait Islander oversight, and act to co-ordinate a comprehensive, current and consistent national approach to data collection and policy development relating to Aboriginal and Torres Strait Islander imprisonment and violence rates.

## **13. Adequately fund the National Aboriginal and Torres Strait Islander Legal Services program as the national peak representative body for the ATSILS.<sup>24</sup>**

# Early Childhood

## Context

The UN Declaration on the Rights of Indigenous peoples outlines the right to live in freedom, peace and security as distinct peoples, including a provision to ensure that Indigenous people will not be subject to forcible removal of children to another group. There is also an expectation upon signatories of the Declaration to provide effective mechanisms to prevent any action that would deprive Indigenous peoples of their integrity as distinct peoples, or of their cultural values or ethnic identities.<sup>25</sup>

With respect to the care, health and wellbeing of indigenous children there is unequivocal evidence that supports the critical importance of continuity of cultural identity and that the strengths in addressing safety concern for Aboriginal and Torres Strait Islander children lie within Aboriginal and Torres Strait Islander Communities.<sup>26</sup>

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<sup>24</sup> 2016 *"The Redfern Statement"* Aboriginal Peak Bodies

<sup>25</sup> *UN Declaration on the Rights Of Indigenous Peoples* accessed <https://www.humanrights.gov.au/publications/un-declaration-rights-indigenous-peoples-1>

<sup>26</sup> Family Matters - Discussion Paper - *An evidence-based approach to address the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care*

The Bringing them Home Report released in 1997 exposed the laws, policies and practices which separated Indigenous children from their families and the pervasive impacts that harmed those of the Stolen Generation and continues to harm later generations<sup>27</sup> In the past 18 years since this report exposed the horror imposed on Aboriginal and Torres Strait Islander People, we have seen an increased number of children removed from families and placed in out of home care, ineffective application of Aboriginal child placement principles and systems like the Kinship Care Program<sup>28</sup> and disruption to cultural connections<sup>29</sup>.

### Current situation

Aboriginal and Torres Strait Islander children are 9 times more likely to be placed in Out-of-home-care than their non-Indigenous peers, representing 35% of all children in Out-Home-Care in Australia.<sup>30</sup>

Consecutive governments have failed to provide mechanisms that would prevent the removal of children and thus depriving future generations of connection to community and culture. Such mechanisms that would respond to the legacy of past policies of forced removal, including intergenerational effects of separations from family and culture and social and economic disadvantage.<sup>31</sup>

Specifically there has been a failure to support early intervention, investment in strengthening and healing families and communities, with only 16.58% of child and family welfare expenditure being allocated to early intervention. This failure has been exacerbated by consecutive governments' failure to recognise the principles of self determination that enables effective engagement with Aboriginal and Torres Strait Islander people in the design and delivery of services that could effectively support and strengthen families.<sup>32</sup>

ANTaR calls on the next Federal Government to commit to:

- 1. Reduce over-representation of Aboriginal and Torres Strait Islander children in out-of-home care**
- 2. Work with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to develop a national strategy and target to reduce this overrepresentation**

<sup>27</sup> *Bringing Them Home Report* accessed

<https://www.humanrights.gov.au/publications/bringing-them-home-chapter-1>

<sup>28</sup> 12 Tilbury, C (2013) *Aboriginal and Torres Strait Islander Child Placement Principle: Aims and Core Elements*, SNAICC. Accessed 22/9/2015 [http://www.snaicc.org.au/\\_uploads/rsfil/03167.pdf](http://www.snaicc.org.au/_uploads/rsfil/03167.pdf)

<sup>29</sup> Family Matters - Discussion Paper - *An evidence-based approach to address the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care*

<sup>30</sup> Australian Institute of Health and Welfare *Child Protection Australia* accessed <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129554513>

<sup>31</sup> Family Matters webpage <http://www.familymatters.org.au/the-issue>

<sup>32</sup> Family Matters webpage <http://www.familymatters.org.au/the-issue>

- 3. Increase the priority of supporting families to care for children**
- 4. An adequately resourced federal Aboriginal and Torres Strait Islander early childhood education and care program to support our most vulnerable children**
- 5. At least two full days (20 hours) subsidised access to early childhood education and care for all children, regardless of their parents' circumstances**
- 6. Family Tax Benefit payments**
- 7. Early Childhood Education**
- 8. Invest in the First 1000 Days**

### **1. Reduce over-representation of Aboriginal and Torres Strait Islander children in out-of-home care**

For Aboriginal and Torres Strait Islander families, harm to children often has inter-generational causes, linked to the breakdown of culture and community connectedness and identity. Prevention of harm therefore must seek to intervene in inter-generational cycles of harm by healing, strengthening and reconnecting families and communities.

### **2. Work with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to develop a national strategy and target to reduce this overrepresentation**

Numerous reports and inquiries in Australia have consistently confirmed that the lack of robust community governance and meaningful Aboriginal and Torres Strait Islander participation are major contributors to past failures of Government policy. True realisation of the rights of children requires transparency and accountability from Government, and a commitment to prioritising the knowledge of Aboriginal and Torres Strait Islander communities on how to keep our children safe and well.

### **3. Increase the priority of supporting families to care for children**

The priority of supporting families to care for children should be increased under the Indigenous Advancement Strategy, consistent with the National Framework for Protecting Australia's Children 2009-2020.

#### **4. An adequately resourced federal Aboriginal and Torres Strait Islander early childhood education and care program to support our most vulnerable children**

If Australia is serious about achieving equality for Aboriginal and Torres Strait Islander peoples, the Government must invest in Aboriginal and Torres Strait Islander leadership and governance of early childhood education and care.

#### **5. At least two full days (20 hours) subsidised access to early childhood education and care for all children, regardless of their parents' circumstances**

Early childhood education and care reforms currently underway must redress this issue as a priority to ensure affordable access for all Aboriginal and Torres Strait Islander families.

#### **6. Family Tax Benefit payments**

Commit to strengthening family payments for families on low incomes.

#### **7. Early Childhood Education**

Make a long-term commitment to subsidise full-time access for Aboriginal and Torres Strait Islander children (0-6 years) so that all families, and particularly the most vulnerable, can afford five days of early childhood education.

#### **8. Invest in the First 1000 Days**

Provide adequate investment for the launch of the Australian model of the First 1000 Days, an Indigenous-led, holistic initiative which seeks to provide coordinated, comprehensive intervention to address the needs of Aboriginal and Torres Strait Islander children and their families from (pre-) conception to two years of age.<sup>33</sup>

## **Basic Services in Remote Communities**

### Context

Connection to land is critical to the spiritual, cultural and economic wellbeing of individuals and the collective identity of indigenous communities.<sup>34</sup> As such the UN Declaration on the Rights of Indigenous Peoples articulates the rights of Indigenous peoples to remain on their lands or territories without threat of forced removal.

Further there is an obligation for signatories of the UN Declaration on Rights of Indigenous Peoples to adhere to the principles of free, prior and informed consent and for the provision

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<sup>33</sup> 2016 *"The Redfern Statement"* Aboriginal Peak Bodies

<sup>34</sup> Office of Environment and Heritage webpage *Supporting Aboriginal Connection to Country*  
<http://www.environment.nsw.gov.au/nswcultureheritage/almf.htm>

of mechanisms for the prevention of any action that would have effect of dispossessing Indigenous peoples of their lands, territories or resources.

Recent funding agreements between the Federal and State Governments for remote municipal services has left remote Aboriginal and Torres Strait Islander Communities vulnerable. With the WA Government questioning the viability of maintaining this service for up to 150 communities, the impact of which would have the effect of forcibly moving Aboriginal and Torres Strait Islander communities from their ancestral lands.

#### Current situation

In September 2014 Federal Government announced that it would no longer fund essential municipal services including supply of power, water, and management of infrastructure in remote Aboriginal communities in Queensland, Victoria, NSW, Western Australia, and Tasmania, despite having done so for decades.

The South Australian government refused to sign an agreement, and the Western Australian government signed an agreement with the Federal Government for funding of \$90 million which would fund services until June 2018.

The WA government announced that it would discontinue funding at that time and would instead close between 100 and 150 of the 274 remote Aboriginal communities in the state.

The decisions by both the Federal and the State Governments occurred without any consultation with Aboriginal people in the affected communities.

#### ANTaR calls on all political parties to commit to:

<p><b>1. Funding of essential services</b></p>
<p><b>2. Working in Partnership with Aboriginal people on sustainable development initiatives</b></p>

#### **1. Funding of essential services**

Forging a new agreement with states and territories that ensures the ongoing funding of such services to all Aboriginal communities in Western Australia

#### **2. Working in Partnership with Aboriginal people on sustainable development initiatives**

Working in partnership with Aboriginal people in the 274 remote Aboriginal communities in Western Australia on sustainable development initiatives, maximising health and wellbeing gains from living on homelands, and supporting future aspirations of community members.