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Senate Standing Committee on Community Affairs
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Submission on the Stronger Futures in the Northern Territory Bill 2011 and two related bills

Dear Senate Community Affairs Committee,

Eastern Suburbs Organisation for Reconciling Australia has been an active group since 1997 working to support Aboriginal and Torres Strait islander aspirations for justice and human rights and recognition in Australian society. We have contact with people in the Northern Territory affected by the NTER (Northern Territory Emergency Response) which are soon to come under the 'Stronger Futures' measures. Over the last five years we have followed government reviews and publications of independent research related to the NTER.

We note with alarm that the punitive and discriminatory direction taken by the NTER laws is now to be further entrenched for ten more years. All evidence which would indicate improvement in well-being has shown the abject failure of the previous five years policy. This includes increasing incarceration rates, incidents of attempted self-harm doubling, even higher unemployment rates occurring (e.g. due to the cuts to Community Development Employment Projects (CDEP)); continued third world health standards and living conditions, an increase in children being removed from families and more. Government and ministers seem deaf and blind to the avalanche of research and evidence of this disgraceful state of affairs.

We question why the Government would seek to entrench measures which contravene the United Nations Declaration of the Rights of Indigenous Peoples (UN DRIP) which Australia endorsed on 3 April 2009 and fail to support the principles of self-determination. It is clear that the government did not receive consent from its flawed 'consultation' process and failed in its duty to respect the wishes of the people affected and further has used that process to mask its intention to go ahead with measures clearly against the wishes of those who gave their trust and participated in the consultations. Their pleas to be heard may be found at the concerned Australians website. www.concernedAustralians.com.au. We also question why there will be further entrenchment of Compulsory Income Management given the widespread opposition and the huge cost involved. That money could be spent delivering affordable fresh food. An immense amount of money has already been spent on Income Management with no evidence that it actually helps people on the ground to better manage their money.

Our group has long championed the cause of land rights. We find it hard to believe that the Stronger Futures legislation could be implemented, undermining laws that safeguard community and town camp land for Aboriginal People, for Aboriginal purposes in perpetuity. How can the government allow for unrestrained non-Aboriginal private ownership and land development on these lands? These lands were hard won by people displaced because of the widespread pastoral acquisition who received no land rights compensation and no land to live on. UNDRIP articles 25, 26 and 28 all should guarantee rights to keep and strengthen relationship with land, water and resources, to own use and control these and to have them returned when taken without their free, prior and informed consent.

We note that this legislation continues to erode communities having control of decisions made which affect them. Not only are they under control of the imposed Government Business Manager, community organisations have lost their assets to the creation of Mega Shires. Work done for the improvement of the community and prioritised by the community such as night patrols, aged care, teacher's aides, rubbish collection, road maintenance, alcohol management and more are now lost to their control. Many such programs have been devised and pioneered by communities finding solutions to problems that they have needed to and wanted to address in culturally appropriate ways. UN DRIP requires that communities have control over their lives and evidence is clear that when people have that control their health improves.

This legislation continues to make illegal the consideration of customary law when setting bail or sentencing. Such a condition is not extended to any other member of Australian society. Under UN DRIP customary law must be respected under article 34. Article 8 states that 'Indigenous people should be free from assimilation. Governments shall prevent actions that take away their distinct cultures and identities, the taking of their lands and resources, their removal from their land, any form of assimilation and any propaganda against them'. Professor James Anaya, United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people clearly stated to the government that these laws (NTER measures) overtly discriminate against Aboriginal peoples, adding that they "*infringe their right of self-determination and stigmatise already stigmatised communities*". He urged the Australian Government to fulfil its obligation under the declarations to which it is a signatory, yet the Government seeks to do the opposite and further strengthen these discriminatory and assimilationist policies.

In the matter of Compulsory Income Management we state our strong objection to its compulsory nature and its extension outside of the Northern Territory. There has been clear documentation that people feel humiliated by this measure and there has been no substantiated evidence that it helps people manage their money, in fact for many it has

made this task more difficult. If income management is thought by the Government to be so helpful why is it not made voluntary and without bribes?

Amongst our members are several teachers and we are appalled to see SEAM (School Enrolment and Attendance Measure) appear in the legislation. It fails to recognise the many and complex family, personal and health reasons that may cause a child to miss school. In the recorded 'Stronger Futures' consultations community members made impassioned pleas for reinstatement of bilingual education, a curriculum more relevant to the local community and community members employed in the school as ways to encourage and support the education of their children. Overwhelmingly there was opposition to any punitive measures for non-attendance. Aboriginal organisations, NGO's, social service providers and education experts have all strongly stated their opposition. Community trust in Government has been deteriorating since 2007 and to see these measures enter the legislation following the consultations leaves us in no doubt as to why that relationship will continue to deteriorate.

Further punitive measures such as people found with one bottle of beer being imprisoned for 6 months, the Government's power to shut down community stores and all those mentioned above will only increase the suffering and despair of Aboriginal People. The measures are costly and fail to achieve their targets. Funds targeted for Aboriginal improvement should be redirected to programs which are designed, owned and directed by Aboriginal people. They understand their own community's needs and priorities and have struggled since colonisation against great odds and with very meagre resources to address the wellbeing of their people.

We watched the Prime Minister's apology and his promise never to repeat the injustices of the past with great hope for the opportunity to reset the Government's relationship (and by inference the Australian People's relationship) with our First Nations. We now feel we are witnessing policies that are world's worst practice which is hard to believe could still happen in the 21st century. We had hoped we could walk in partnership, honouring the UN Declaration on the Rights of Indigenous Peoples but now feel we will rightly be urged once again by UN rapporteurs to fulfil our obligations under the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights, treaties to which we are a party, as well as (our obligations under) the UN Declaration on the Rights of Indigenous Peoples to which the Australian Government affirmed its support (in 2009). The loss of such a great opportunity will see further tragedy unfolding in those affected communities and it will reflect shamefully upon us, one and all, as citizens of Australia.