

3 June 2008

Secretary
Senate Select Committee for
Regional and Remote Indigenous Communities
Parliament House
Canberra ACT 2600

National

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Dear Secretary,

Please find attached Oxfam Australia's submission to the Senate Select Committee on Regional and Remote Indigenous Communities.

Oxfam Australia has worked in Indigenous Australia for more than thirty years, including in remote communities in the Gulf of Carpentaria in north-west Queensland. We also support a range of partner organisations engaged in monitoring and evaluating the impacts of the Northern Territory Emergency Response.

We would be happy to speak to this submission if requested by the Committee.

Yours sincerely,


Andrew Hewett
Executive Director



Submission to

**Senate Select Committee on
Regional and Remote
Indigenous Communities**

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Summary

Effective Development and Indigenous Policy and Practice Reforms

1. Oxfam Australia recognises and celebrates the value, diversity and richness of culture of Aboriginal and Torres Strait Islander people living in regional and remote communities.
2. We also are acutely aware that many remote and regional Indigenous communities experience poverty and social disadvantage at disproportionate levels and believe the reasons for this are many and varied.
3. We advocate solutions that are evidence-based and that uphold the basic rights of human beings and the inherent rights of Indigenous people. These include the rights of Indigenous people to live within their cultural territories and to an identity of their choosing. Governments have a responsibility to respect, protect and fulfil these rights as well as the right of all Indigenous people, including those who live in regional and remote Australia, to have access to essential services. The human rights obligations of the State include the duty to protect against the violation of rights by others, which includes taking action to ensure the safety, security, access to adequate food and other fundamental human rights of women, men and children where these rights are being denied by the actions of other members of a community. In so doing, however, the State must develop appropriate actions to avoid further undermining human rights.
4. This submission is not intended to comprehensively address each of the terms of reference. Rather, it draws on relevant aspects of Oxfam Australia's work in Indigenous Australia for more than thirty years, including in remote communities in the Gulf of Carpentaria in north-west Queensland, and our support for a range of partner organisations engaged in monitoring and evaluating the impacts of the Northern Territory Emergency Response (NTER).
5. We also draw on our experience as an international development organisation and argue that good international development practice takes a rights-based approach and applies principles for effective development, which should equally apply to development initiatives here in Australia.
6. The Paris Declaration on Aid Effectiveness,¹ agreed internationally by more than one hundred countries, including Australia, emphasises principles of ownership, alignment, harmonisation, managing for results and mutual accountability. The Declaration is expressly directed toward aid effectiveness, and Oxfam Australia believes the principles it contains are relevant and applicable to development efforts more broadly, including here in Australia. Accordingly, we urge the Government to ensure that its approach to Indigenous development is consistent with these principles, to which it has committed internationally.

¹ OECD, 2005, available at http://www.oecd.org/document/18/0,2340,en_2649_3236398_35401554_1_1_1_1,00.html

7. The principles outlined by the Prime Minister in his 'Address to Heads of Agencies and Members of the Senior Executive Service' on 30 April 2008 are consistent with those contained in the Paris Declaration.² Moreover, aspects of those principles are evident in some of the new Government's early efforts, including the recognition of the need for consultation, the national significance accorded to the Apology, the commitment to Indigenous representation and recognition of the need for "joined up" government to meet the specific development needs of local communities.
8. We urge the Government to ensure that there is effective and ongoing participation by Indigenous communities in decision making about their development, including in the elaboration of government policy and practice at all levels. Consultation with Indigenous communities should be broad-based and directly influence the development of government policy and practice with the objective of achieving agreement with the proposed policies and practice. Such participation in decision making is a core tenet of a range of human rights, including the right to development.
9. To address many of the challenges inherent in regional and remote Indigenous communities, Oxfam Australia advocates:
 - engagement which is consistent with the principles for effective human rights-based development;
 - an integrated and long-term planned approach;
 - an intensive focus on recognising and building on strengths, including individual and community leadership and resilience, across Indigenous Australia;
 - immediate and ongoing redress of the underinvestment in infrastructure and services for Indigenous communities, including utilising the Building Australia Fund, the Education Investment Fund and the Health and Hospital Fund to address Indigenous disadvantage; and
 - sustained cabinet, ministerial and departmental focus on combating Indigenous disadvantage.

Northern Territory Emergency Response (NTER)

10. Oxfam Australia is strongly supportive of measures to protect children and women from abuse, improve health and educational outcomes, increase housing supply and provide basic services, such as adequate policing, in regional and remote Indigenous communities.
11. We welcome the Government's commitment to invest additional resources into Indigenous communities in the Northern Territory in areas such as health, educational opportunity, training, economic development, policing and housing. We urge the Government to continue, and to increase, its focus on meeting these particular commitments, although we believe the way they are implemented needs to change.

² Available at http://www.pm.gov.au/media/Speech/2008/speech_0226.cfm

12. The manner in which the NTER was first implemented and a number of the measures under the NTER are not consistent with the principles which underpin effective human rights-based development; nor do they meet the standards later set by Prime Minister Rudd in his address of 30 April 2008.
13. Several of the measures used in the early implementation of the NTER were not built on a solid evidence base and were not consistent with a rights-based approach to development. Indigenous people were not consulted or adequately informed about significant changes affecting their lives; discrimination was embedded in legislation, inconsistent with the human rights of Indigenous people and with Australia's international commitments; support programs were withdrawn; and Indigenous communities' control over their lands and their daily lives was impeded. Moreover, there was no solid evidence that these measures would lead to any material benefit.
14. In contrast, the research findings and evidence-based recommendations of the Ampe Akelyernemane Meke Mekarle (Little Children are Sacred) Report³ have not been addressed or implemented. We urge the Government to revisit this important document which builds on communities' strengths and capacities rather than relying on imposed top-down measures. We note that the first recommendation of this report included:

*It is critical that both governments [Northern Territory and Commonwealth] commit to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities.*⁴
15. The complexity and lack of congruence of the measures comprising the NTER, combined with inadequate planning and communication, exacted an additional human cost. A range of organisations Oxfam Australia has been supporting in monitoring the NTER report that fear, confusion, increased homelessness due to movement from communities and financial hardship resulting from transitional problems in the changeover of systems, were just some of the challenges faced by Indigenous communities and individuals as a result of the poor implementation of the NTER. Many of these impacts were predicted by Aboriginal people and civil society experts at the outset. This additional human cost can be ill afforded by disadvantaged and marginalised communities, already suffering from long term lack of planning for, and investment in, Indigenous development. Additional action is now required to redress this cost.

Recommendations

1. Government engagement with Indigenous communities should be built upon principles for effective human rights-based development and consistent with the Prime Minister's 30 April 2008 address including:

³ Wilde R and Anderson P, *Ampe Akelyernemane Meke Mekarle (Little Children are Sacred) Report*, (2007).

⁴ Ibid p 22

- a. participation of Indigenous people through their own representative institutions in designing programs and projects that affect them so as to ensure Indigenous people are actively engaged in determining their own development, and so as to support Indigenous leadership capacity;
 - b. collaborative, coordinated, inclusive and innovative government;
 - c. contemporary and flexible government service delivery, appropriate to context, avoiding a one size fits all approach and encompassing a long term view;
 - d. transparency, integrity and accountability;
 - e. respect for human rights;
 - f. capacity for review of decisions and for redress; and
 - g. monitoring, evaluation, learning and adaptation.
2. The Government should work towards a comprehensive, evidence-based and long-term planned approach, with the objective of fulfilling human rights including eradicating Indigenous disadvantage and ensuring that the Rudd Government's broader national reform agenda is implemented in a way which is fully inclusive of, and culturally appropriate to, Indigenous Australians. This approach should include:
- a. the establishment of a national Indigenous representative body to provide directions for decision-making;
 - b. milestones, goals and measurable targets, derived from locally owned and driven plans, to be achieved in timeframes and according to standards agreed with Indigenous people for all of the key elements of the national reform agenda;
 - c. independent accountability mechanisms, including social accountability processes of the type supported by Oxfam Australia and AusAID internationally, for example citizen report cards, participatory budgeting, community based monitoring and targeted complaints and redress mechanisms; and
 - d. comprehensive and ongoing monitoring and evaluation, overseen by an independent commission working at arms length from government and which reports annually to the Commonwealth Parliament.
3. Appropriate administrative arrangements should ensure sustained cabinet, ministerial and departmental focus on combating Indigenous disadvantage.
4. The Northern Territory Emergency Response (NTER) should be replaced with a long-term, planned process consistent with Recommendations 1 and 2 above and which:
- a. Removes all racially discriminatory measures through:

- i. legislative reform to ensure the Racial Discrimination Act 1975 (Cth) applies consistent with Australia's commitment to the International Convention on the Elimination of Racial Discrimination;
 - ii. abolishing compulsory systems of income management that take a blanket approach, addressing a whole geographic area and/or particular group in the population;
 - iii. amendment of legislation which impedes Indigenous communities' control over their land; and
 - iv. reinstatement of redress mechanisms for communities affected by the NTER, including full access to the Social Security and Administrative Appeals Tribunals.
 - b. Reviews the role and operation of external workers placed in communities, including that of Business Managers.
 - c. Ensures that:
 - i. program budgets are expended on the basis of community-driven analysis and planning; and
 - ii. the bureaucracy is accountable for coordinating budgetary allocations to meet community need, rather than leaving it to communities to seek grant-based funding from multiple sources.
- 5. Immediate and ongoing redress of the underinvestment in infrastructure and services for Indigenous communities, including utilising the Building Australia Fund, the Education Investment Fund and the Health and Hospital Fund to address Indigenous disadvantage.
- 6. Urgent priority should be given at both national and state levels to ensure:
 - a. full access to primary health care and appropriate specialist services for all Indigenous people at a level which reflects their higher health care needs;
 - b. implementation of the set of targets agreed to at the National Indigenous Health Equality Summit in March 2008.
- 7. Government investment should seek to build on strengths and properly resource all Aboriginal and Torres Strait Islander community controlled services and culturally specific programs. Investments should ensure full funding of programs and approaches which have proven successful and enjoy community support, with the option to expand these programs where communities feel is appropriate. These may include:
 - a. violence reduction, community night patrols, women and children's safe houses and expanded policing;
 - b. the Indigenous community controlled health sector including their social, emotional and mental health (non-clinical) wellbeing programs;

- c. Caring for Country, Ranger and Land Management Programs;
 - d. locally accessible, culturally appropriate and effective alcohol and substance abuse support systems, and healing and rehabilitation centres; and
 - e. community development and community worker support including for local community women's groups, men's groups, justice groups, grandmothers' groups, Elders' groups, youth workers (male and female); young mothers groups, youth diversionary programs, recreation activities, cultural centres and media initiatives.
8. Mainstream services should be fully accessible and accountable to Indigenous clients.

Background

Oxfam Australia's Role in Indigenous Affairs in Australia

1. Oxfam Australia has supported opportunities for Aboriginal and Torres Strait Islander peoples to exercise their rights to basic social services, sustainable livelihoods, a strong voice and cultural diversity, for more than 30 years. Our program has a particular focus on Western Australia and the Gulf of Carpentaria in Queensland, as well as nationally through our initiatives to support the Close the Gap campaign, Indigenous young people and Indigenous people's rights.

2. Indigenous Youth

We work with young Indigenous men and women to:

- develop their leadership capacity;
- strengthen cultural identity, responsibility and rights;
- develop indigenous youth networks in Australia and internationally; and
- take greater control over their lives and actively engage in their communities and the wider society.

3. Health and Well Being

We work to develop the social and emotional wellbeing of Aboriginal and Torres Strait Islander communities by strengthening the governance, management systems and policy work of Aboriginal Community Controlled Health Services and other Aboriginal health organisations.

4. Community Development

With funding from the Commonwealth Department of Health and Ageing, we manage the Gulf Regional Health Service in north-west Queensland. This service takes a community development approach to improve the health and wellbeing of Aboriginal people in the Gulf region, particularly in the communities of Mornington Island, Normanton and Doomadgee, through the appointment of community development officers and health promotion officers in each community.

5. Self Determination

Indigenous peoples are recognised by international law and institutions as distinct, self-determining peoples with inherent collective rights. Oxfam Australia supports the right of Aboriginal and Torres Strait Islander peoples to have an effective voice and opportunities for genuine participation in all decisions affecting their lives. An example of work we support includes the diplomacy training program,⁵ which assists Indigenous leaders in developing advocacy and lobbying skills and an understanding of the international human rights framework.

6. Gender

Oxfam Australia is committed to addressing the different issues faced by Indigenous Australian women and men. For example, we work with the Yorgum Aboriginal Corporation⁶ to help provide a culturally safe healing environment with programs addressing child sexual abuse, family violence and community development.

Our Experience in Development

7. We are an independent, not-for-profit, secular international development agency. We are a member of Oxfam International, a global confederation of 13 Oxfams that work together to fight poverty and injustice in more than 100 countries around the world. We have worked with local communities around the world to combat poverty and injustice for over 50 years.
8. Our organisation undertakes long-term development projects, provides emergency response during disaster and conflict, and conducts campaigning and advocacy for policy and practice changes which promote human rights and justice. We support over 400 long-term development projects in 30 countries across Africa, Asia, the Pacific and Indigenous Australia.
9. Our experience confirms that effective development relies on the key principles of participation, transparency, collaboration and coordination, monitoring and evaluation, respect for human rights and establishment of mechanisms for review.

Implementing the Principles for Effective Development in Regional and Remote Indigenous Communities

Participation

10. Participation is critical to development. It enables ownership, whereby people and communities can take responsibility for their own development and build their leadership capacity. Oxfam Australia's global experience demonstrates that representation, at a national level, must be underpinned by complementary and comprehensive local mechanisms.

⁵ See www.dtp.unsw.edu.au

⁶ See www.yorgum.org.au

11. Oxfam Australia encourages consultation and cooperation with Indigenous peoples through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. Such an approach to decision making is consistent with principles of good governance and is essential to the achievement of the Millennium Development Goals of halving extreme poverty by 2015.⁷ There is widespread agreement that an element of “good governance” is the principle of participatory governance,⁸ which involves meaningful participation of Indigenous peoples and civil society in policy making and administration processes.⁹ There is also increasing appreciation of the links between such participation, human rights, and poverty reduction.¹⁰ Obtaining the consent of Indigenous peoples and local communities to projects minimises the potential for communities to be adversely affected by those projects and enhances the potential for development to contribute to economic and human development. As such, free, prior and informed consent is increasingly used within the United Nations system as a practical tool and methodological approach for designing programs and projects that affect Indigenous Peoples, and is recognised as an important “mechanism for operationalising the human-rights based approach to development”.¹¹
12. Oxfam Australia urges the Government to establish and resource effective and long-term processes of participation, capacity building and dialogue at all levels of Indigenous society including continuing engagement with Indigenous leaders and representatives.
13. Many of the previous government’s processes with respect to Indigenous affairs, and particularly those relating to the NTER, failed to encourage or support full engagement and participation of Indigenous people, communities and organisations. Moreover, the way in which the NTER was implemented was widely perceived as racist and degrading.
14. The failure to implement a participatory approach and to respect the rights of Aboriginal people to be fully involved in decisions that affect them, has resulted in increasing disempowerment and is likely to have exacerbated the very problems the interventions have been attempting to address.
15. The role of external staff located within Aboriginal communities is challenging. Placement of external staff has had mixed results in the Northern Territory, and their role and contribution is still unclear to many within these communities. External workers require, at a minimum, an understanding of the need for participatory approaches, high-level skills in communication and appropriate cultural knowledge. External ‘experts’ can be perceived as imposing solutions, undermining the

⁷ Economic and Social Council Permanent Forum on Indigenous Issues, *Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples* (2005) UN Doc No E/c.19/2005/3 (hereafter PFII, *FPIC Methodologies Report*).

⁸ See, eg, AusAID, *Good Governance: Guiding Principles for Implementation* (2000) < www.ausaid.gov.au > at 1 Oct 2006.

⁹ Secretariat of the UN Permanent Forum on Indigenous Issues, *Engaging Indigenous Peoples in Governance Processes: International Legal and Policy Frameworks for Engagement* (2005) < http://www.un.org/esa/socdev/unpfii/documents/engagement_background_en.pdf > at 1 Oct 2006.

¹⁰ AusAID, above n 8.

¹¹ Secretariat of the UN Permanent Forum on Indigenous Issues, above n 9, 4.

confidence and development of local expertise and impeding communication and development through cultural misunderstanding. Even the best prepared external worker will not be fully aware of complex cultural relationships and practices in any local community.

16. In the context of the NTER, the role of external workers has been particularly challenging given the level of distrust and miscommunication arising from the inadequate engagement process. Local partner organizations also report concerns about the levels of resources going to these positions, with little local gain, while identified needs have received little or no funding.

Collaborative, Coordinated, Inclusive, and Innovative Government

17. We commend the Government on its commitment to the establishment of an Indigenous representative body. A representative body creates the opportunity for Indigenous voices to engage with Government on Indigenous terms, which represents an important aspect of inclusive government.
18. Coordination within and between layers of government and with communities is essential to addressing the problems experienced across many Indigenous communities. Collaboration, coordination and joined-up government are essential elements of effective development and key outcomes sought by the Paris Declaration. Informed planning from the community level upwards and community focused programs, designed and delivered to meet the needs of different communities are required.
19. Previously, governments have failed to clarify responsibilities within and between levels of government to provide essential services to citizens, and have established costly, burdensome and duplicative administrative systems.
20. There are overlapping and duplicative roles and responsibilities between federal, state and local government officials, Federal Government Business Managers, Indigenous Coordination Centres and the State and Territory offices of Federal Government departments.
21. There is a need to immediately establish clear requirements for bureaucracies, including:
 - Expending program budgets on the basis of community-driven analysis and planning;
 - Making the bureaucracy accountable for ensuring that budgetary allocations are coordinated and meet community need, rather than leaving it to communities to seek grant based funding from multiple sources.

Transparency, integrity and accountability

22. Transparency is underpinned by ensuring there is:
 - consultation and communication with those who will be affected by decision making and an opportunity for effective participation in decision making processes;

- the establishment of checks and balances on administrative and executive power; and
 - open access to information.
23. The Indigenous stream in the 2020 Summit called for “independent mechanisms with teeth and sanctions to monitor accountability of governments, involving significant Aboriginal and Torres Strait Islander representation.” Oxfam Australia agrees that such mechanisms are critical to transparent government and to achieving effective development.
 24. Our understanding, derived from our partner organisations in the Northern Territory, is that inadequate communication regarding the introduction of the NTER led to heightened concerns, misunderstanding and fear amongst Indigenous people and communities. Elderly people have been particularly vulnerable to changes and, without adequate provision of information about the reforms, are at greater risk of going without food and basic services.
 25. The legislative changes which established the NTER significantly increased the Commonwealth Minister’s discretionary powers in relation to Indigenous affairs in the Northern Territory, including over Indigenous lands, community management and governance, funding and personal expenditure – without establishing corresponding checks and balances. Such an increase in discretion is not in the interests of accountable, transparent government.
 26. Oxfam Australia encourages governments to ensure access to all information relevant to regional and remote Aboriginal people and communities, including all data associated with the NTER. We note communities in the Northern Territory have reported a deficiency in such information sharing.
 27. It is also vital for this information to be made available to those communities in ways that can be readily understood. Support should be provided to Indigenous communities and people in accessing, understanding and effectively using information, and in building upon local capacity in planning, management and evaluation so as to ensure that reforms and services are delivered transparently.
 28. We note the difficulty evident in the February 2008 Senate Estimates hearings in identifying overall federal expenditure on the NTER and on the rollout and outcomes from specific measures. If it is difficult for Senators to access information about the NTER, remote Indigenous communities have little chance of gaining access to such information.

Respect for Human Rights

29. Australia’s full commitment to the international architecture intended to uphold human rights is critical to the protection of our citizens at home and abroad, to our democratic systems and the rule of law, and to our standing in the international community. The *Racial Discrimination Act 1975* (RDA) is a key plank of the domestic implementation of our human rights commitments, including under the International Convention on the Elimination of Racial Discrimination.

30. Article 5(c) of the International Convention on the Elimination of Racial Discrimination refers to the right of everyone to enjoy their “[p]olitical rights, in particular the right to participate in elections, ...to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service”.¹² The United Nations Committee on the Elimination of Racial Discrimination, which interprets the Convention, has recommended that to fulfil their obligations under the Convention, states should “ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent”.¹³ In interpreting Inter-American Human Rights law, the jurisprudence of the Inter-American Court of Human Rights has echoed these statements, with several decisions stating that Indigenous Peoples’ informed consent is required in relation to activities that affect their traditional territories.¹⁴
31. Oxfam Australia urges the Government to amend all legislation which is not fully consistent with the spirit and intent of the RDA, with Australia’s international commitments and with Australia’s efforts to provide a positive role model and leadership on human rights in our region and the world.

Capacity for Redress – Review and Complaints Mechanisms

32. The provision of mechanisms for complaint, review and remedy are basic rights for citizens, underpinning our democratic systems and the rule of law. No government, however democratic and participatory, is beyond making mistakes in the application of policy and legislation.
33. In Australia, the Social Security and Administrative Appeals Tribunals are amongst a range of mechanisms which can provide remedy for unreasonable decisions. The Government should restore all rights to procedural fairness and external merits review in the Northern Territory and elsewhere.

Monitoring, Evaluation, Learning and Adjustment

34. Oxfam Australia welcomes the Rudd Government's commitment to evidence-based public policy based in part on rigorous monitoring and evaluation, including of the NTER. Oxfam Australia is concerned that up to \$1.6 billion of public money was

¹² *International Convention on the Elimination of All Forms of Racial Discrimination*, opened for signature 7 March 1966, 660 UNTS 195 (entered into force 4 January 1969), Art 5(c).

¹³ *General Recommendation XXIII (51) concerning Indigenous Peoples*. Adopted at the Fifty-first session, 1997, 18 August 1997. UN Doc. CERD/C/51/Misc.13/Rev.4, para 4(e). See similar statements made in, among others, *Concluding Observations by the Committee on the Elimination of Racial Discrimination: Australia 24/03/2000*. CERD/C/56/Misc.42/rev.3, at para. 9; *Concluding observations of the Committee on the Elimination of Racial Discrimination: Costa Rica. 20/03/200 2* and, *Concluding observations of the Committee on the Elimination of Racial Discrimination: United States of America. 14/08/2001*.

¹⁴ See for example, *Report N° 75/02*, Case N° 11.140, Mary and Carrie Dann (United States), Dec. 27, 2002. OEA/Ser.L/V/II.116, Doc. 46; The Mayagna (Sumo) Awas Tingni Community Case, Judgment on the Preliminary Objections of 1 February 2000, Series C, No. 66; Report on Admissibility and Merits No. 09/06 on the Case of the Twelve Saramaka Clans (Suriname), 2 March 2006; Report No. 40/04, Maya Indigenous Communities of the Toledo District, Case 12.053 (Belize), 12 October 2004. See also discussion in Forest Peoples Programme and Tebtebba Foundation, *Indigenous Peoples’ Rights, Extractive Industries and Transnational and Other Business Enterprises: A Submission to the Special representative of the Secretary General on Human Rights and Transnational Corporations and Other Business Enterprises*, 29 Dec 2006, available at www.business-humanrights.org.

allocated by the previous government to the NTER without a comprehensive monitoring and evaluation framework, nor a demonstrated evidence base for some of the measures. Within the international community such action by a developing state would be viewed as a failure of governance and of the important principles of public fiscal management.

35. The delay in the announcement of the details of the twelve month review of the NTER is causing some consternation amongst stakeholder groups. A number of Indigenous organisations have made submissions to the Minister about the review process, but have received no response, in some cases after several months. We urge the Government to:
- engage frequently and openly with Indigenous organisations and civil society, including responding to their submissions regarding the NTER review process;
 - establish an independent body for the review, which involves Indigenous people and engages appropriate, high level expertise, including lived understanding of Indigenous communities and culture;
 - ensure that the review consults comprehensively and creates space for community voices to be heard;
 - develop meaningful and participatory assessment processes at the community level; and
 - adopt terms of reference for the review that focus on those measures of most concern and policy uncertainty, investigate opportunities for key learning and provide input to a comprehensive and ongoing process.
36. An ongoing and comprehensive approach to monitoring, review and evaluation is essential. Such an approach should be:
- targeted to provide meaningful information, community by community;
 - overseen by an independent body involving Indigenous people and with appropriate, high-level expertise and comprehensive understanding of the needs and concerns of Indigenous people;
 - encompass all government activity (Commonwealth, State and Territory); and
 - build upon the initial twelve month review of the NTER.
37. Oxfam Australia believes it is worth discussing with Indigenous communities whether there might be value in regular development reports for Indigenous Australia along the lines of the UN Human Development Reports. This might assist in providing international benchmarks for Australia through comparative analysis of other countries with sizeable Indigenous populations, and an assessment of compliance with international norms and standards. Furthermore such a report could assist in providing a holistic picture of Human Development for Indigenous Australia, allowing for a clearer understanding of differences in outcomes across the country.

Recommendation 1:

Government engagement with Indigenous communities should be built upon principles for effective human rights-based development and consistent with the Prime Minister's 30 April 2008 address including:

- a. participation of Indigenous people through their own representative institutions in designing programs and projects that affect them so as to ensure Indigenous people are actively engaged in determining their own development, and so as to support Indigenous leadership capacity;**
- b. collaborative, coordinated, inclusive and innovative government;**
- c. contemporary and flexible government service delivery, appropriate to context, avoiding a one size fits all approach and encompassing a long term view;**
- d. transparency, integrity and accountability;**
- e. respect for human rights;**
- f. capacity for review of decisions and for redress; and**
- g. monitoring, evaluation, learning and adaptation.**

A National, Integrated and Long-Term Planned Approach

38. Governments' and their agents cannot intervene in one part of Indigenous life or one place, without repercussions in others. This has been clearly demonstrated in relation to the NTER where specific interventions have resulted in increased stress in other areas. For example, people have moved to Darwin, Alice Spring and across the borders to northern South Australia and western Queensland to avoid particular aspects of the NTER with the effect of shifting the problems rather than addressing them.
39. We urge the government to ensure that a long term planned approach is taken to Indigenous policy and programs. One of the objectives should be to ensure that the Rudd Government's broader national reform agenda is implemented in a way which is fully inclusive of, and culturally appropriate to, Indigenous Australians. A long term planned approach has been repeatedly called for in Indigenous Affairs and recently in the Ampe Akelyernemane Meke Mekarle Report which recommended, for example:

That the Northern Territory Government work with the Australian Government in consultation with Aboriginal communities to develop a comprehensive long-term strategy to build a strong and equitable core service platform in Aboriginal communities, to

*address the underlying risk factors for child sexual abuse and to develop functional communities in which children are safe.*¹⁵

40. The Rudd Government's national reform agenda incorporates components which are of at least equal importance to Indigenous Australia as to the rest of Australia. These components include reform of federal/state relations, an education revolution, world class health services and social inclusion. Unless Indigenous Australia is fully included in this reform agenda, Australia will further entrench disadvantage and exclusion.
41. In Indigenous Australia, achievement of the Rudd Government's national reform agenda will require at the highest level culturally appropriate and sustained focus on Indigenous requirements within each element of the agenda. We are concerned that the existing machinery of government may be inadequate to achieve the extensive and long term national reforms required to address Indigenous disadvantage. We note that Indigenous Affairs under the previous Government was moved on several occasions from one portfolio to another and for extended periods received limited attention from Cabinet and senior Ministers. Key programs were implemented from different departments and effective coordination was not achieved.

Recommendation 2:

The Government should work towards a comprehensive, evidence-based and long-term planned approach, with the objective of fulfilling human rights including eradicating Indigenous disadvantage and ensuring that the Rudd Government's broader national reform agenda is implemented in a way which is fully inclusive of, and culturally appropriate to, Indigenous Australians. This approach should include:

- a. the establishment of a national Indigenous representative body to provide directions for decision-making;**
- b. milestones, goals and measurable targets, derived from locally owned and driven plans, to be achieved in timeframes and according to standards agreed with Indigenous people for all of the key elements of the national reform agenda;**
- c. independent accountability mechanisms, including social accountability processes of the type supported by Oxfam Australia and AusAID internationally, for example citizen report cards, participatory budgeting, community based monitoring and targeted complaints and redress mechanisms; and**
- d. comprehensive and ongoing monitoring and evaluation, overseen by an independent commission working at arms length from government and which reports annually to the Commonwealth Parliament.**

¹⁵ Wilde and Anderson, above n 3, p 22.

Reform of Federal/State Roles

42. The needs of Indigenous Australia and redress of the chronic underinvestment in regional and remote Indigenous communities should be at the forefront in the implementation of proposed federal/state reforms. The conditions in Indigenous communities across Australia reflect, in part, the ongoing breakdown in federal/state responsibilities.
43. Existing financial arrangements and roles at federal and state levels have failed to ensure that Indigenous communities have access to essential services – safe water and sanitation, adequate housing, primary health care, schooling and policing - let alone the full and diverse opportunities for productive cultural and economic development that the citizens of a developed nation should enjoy.
44. The failures of current mechanisms are demonstrated, for example, in the state of Indigenous health services in the Northern Territory. For example, some two-thirds of the children checked under the NTER have health problems which require further referral. However, lack of integration of these health screenings with existing services, and limited capacity for both immediate and long term follow-up means investment in screening children will likely result in little benefit.

Recommendation 3:

Appropriate administrative arrangements should ensure sustained cabinet, ministerial and departmental focus on combating Indigenous disadvantage.

The Northern Territory Emergency Response (NTER): Observations and Reform Requirements

45. Oxfam Australia takes a rights-based approach to development. The human rights obligations of the State include the duty to protect against the violation of rights by others, which includes taking action to ensure the safety, security, access to adequate food and other fundamental human rights of women, men and children where these rights are being denied by the actions of other members of a community. In so doing, however, the State must develop appropriate actions to avoid further undermining human rights.
46. Oxfam Australia is strongly supportive of measures to protect children, men and women from abuse, improve health and educational outcomes, increase housing supply and provide basic services, such as adequate policing, in regional and remote Indigenous communities. We note, from information provided by our partner organisations, that communities have welcomed the provision of some of these services. Their implementation, however, has been poorly planned and coordinated and perceived by affected communities to be discriminatory, degrading and disempowering. Feedback from the communities in which our partners work suggests that Aboriginal men, in particular, feel stereotyped and humiliated by the way in which they have been portrayed.

47. The response taken in the Northern Territory was not consistent with an approach which respects the rights of citizens. What is required is a carefully-targeted approach consistent with fundamental principles of fairness and justice, whereby restraining and sanctioning is aimed at those individuals whose actions are denying the rights of others in the community. Any measures to be applied to the entire community should only be implemented with the voluntary agreement of the community, including affected women, men and children.
48. Of particular concern is that the majority of the recommendations of the Little Children are Sacred report, which was the trigger for the intervention, have not been addressed or implemented through the NTER. These recommendations are well-evidenced, grounded in communities' experience, build on communities' strengths and capacities, and are closely aligned to, and backed by, international development experience.
49. An immediate impact has been evident in the poorly planned, racially discriminatory and blanket roll out of income management. There is evidence of significant hardship and distress in the way in which income management has been implemented in the Northern Territory. There are a range of administrative and procedural problems, including the complexity of the system, problems with identification procedures and movement of people, lack of clear information and inadequate training and resources to underpin implementation.
50. Specific issues experienced by affected communities associated with income management include:
- quarantined income cannot be used for some types of loans and fines, and this is leading to people defaulting and being put on blacklists;
 - the pre-conditions that were meant to be in place in many communities before the roll out of income management (eg police, well functioning community stores and the availability and pricing of goods) were not put, and in some cases are still not, in place;
 - there are reports of increased stresses in larger towns, but also reports that in some remote communities some stresses have been reduced;
 - there are reports of store cards being traded, and at times for inflated prices;
 - there are indications that store cards mean more people are travelling to larger towns and with larger amounts to spend when in these centres;
 - people who are not living in prescribed areas are nevertheless being income managed – for example, because their postal address is in a prescribed area even if they don't live there. This is complex and time-consuming to redress.
51. Measures which assist families to manage their income may, if carefully implemented, enhance child and family welfare and provide incentives for improved caring and parenting. Clearly, however, the Government should avoid compulsory systems of income management which undermine the fundamental rights of

individuals. A blanket system, addressing a whole geographic area and/or particular group in the population without their express consent is discriminatory and fails to provide any effective incentive or build self reliance.

The Permit System in the NTER

52. Oxfam Australia has previously expressed its strong opposition to the partial abolition of the permit system¹⁶ on the basis that:

- there is no evidence that this measure was or is in any way related to child sex abuse;
- there is a risk that it could exacerbate the problem of child sex abuse;
- the development of the proposal to abolish the permit system predated the release of the Anderson/Wild *Little Children Are Sacred* report and was based on an ideological position rather than any factual basis, as there is no evidence that child abuse is any higher where the permit system exists; and
- The measure was at direct loggerheads with a number of other measures comprising the NTER, thereby compromising the effectiveness and consistency of the overall approach.

53. Oxfam Australia agrees with the Government's intention to reinstate the permit system thus giving Aboriginal communities control over visitors to their land and continuing necessary access for police and public officials. The permit system gives effect to the property rights of traditional owners on their land, protects the privacy of Indigenous residents and supports expression of their culture and their control over cultural sites and activities.

Recommendation 4:

The Northern Territory Emergency Response (NTER) should be replaced with a long-term, planned process consistent with Recommendations 1 and 2 above and which:

- a. **Removes all racially discriminatory measures through:**
 - i. **legislative reform to ensure the Racial Discrimination Act 1975 (Cth) applies consistent with Australia's commitment to the International Convention on the Elimination of Racial Discrimination;**
 - ii. **abolishing compulsory systems of income management that take a blanket approach, addressing a whole geographic area and/or particular group in the population;**

¹⁶ See, Altman J, *The 'National Emergency' and Land Rights Reform: Separating fact from fiction*, Oxfam Australia, 7 August 2007, available at: <http://www.oxfam.org.au/campaigns/indigenous/docs/land-rights-altman.pdf>

- iii. **amendment of legislation which impedes Indigenous communities' control over their land; and**
- iv. **reinstatement of redress mechanisms for communities affected by the NTER, including full access to the Social Security and Administrative Appeals Tribunals.**
- b. **Reviews the role and operation of external workers placed in communities, including that of Business Managers.**
- c. **Ensures that:**
 - i. **program budgets are expended on the basis of community-driven analysis and planning; and**
 - ii. **the bureaucracy is accountable for coordinating budgetary allocations to meet community need, rather than leaving it to communities to seek grant-based funding from multiple sources.**

Building Individual and Community Leadership, Resilience and Social Accountability, and Redressing Underinvestment

Building on Strengths

54. Individual and community resilience and leadership are evident in many diverse forms across Indigenous communities. The range of services developed by Indigenous people over several decades to develop their communities and address problems is testament to their imagination, persistence and intelligence. Current examples include local community business development, community night patrols, safe houses for women and children and support programs for men. It is important that governments recognize and build upon these skills and this resilience and ensure adequate resourcing of successful programs across Australia.
55. Sustainable communities require leadership and capacity to plan, develop community initiatives, support community members, manage tensions, drive locally appropriate service delivery, monitor and adapt. Development cannot be achieved by external government intervention and service delivery without robust local capacity and ownership.
56. A strategy to build leadership, resilience and capacity, community by community, is required. Such a strategy should:
- recognise and value the leadership skills of local community members – men, women and young people;
 - establish flexible service delivery mechanisms which ensure that small communities are not burdened by unnecessary service delivery roles or having to secure and report on multiple funding sources;

- ensure and resource community oversight and planning of all projects and programs;
- provide resources within communities for:
 - maximum input and decision-making on all matters that affect those communities,
 - establishment of management and service delivery standards,
 - assessment of performance,
 - performance improvement,
 - monitoring, adaptation and review;
- ensure that government programs and officials have a strong focus on building local community capacity and meeting community needs in the manner best suited to each particular community; and
- build cultural understanding and communication skills of all external personnel working in remote and regional Indigenous communities.

57. There are many Indigenous initiated and supported programs which have delivered essential services, but have been chronically under resourced. The Indigenous community controlled health sector, for example plays a critical role in the provision of essential health services across Australia. The Indigenous Ranger and Caring for Country programs rely upon and build skills across remote Indigenous communities, enhancing resilience and maintaining and strengthening cultural knowledge and individual identity. These programs also have significant wider social benefit in sustainable management of large tracts of land and in biodiversity and carbon reduction.

58. Many remote communities occur within the wider regions driving Australia's economic growth and need comprehensive mechanisms to ensure they can access diverse community development opportunities. We recommend that the Government ensure ongoing and coordinated program support, including in building local community skills and self reliance and supporting mobility between small remote communities, larger centres and urban areas.

Redressing Underinvestment

59. Infrastructure development targeted to redress past underinvestment, maximum use of modern transport and telecommunications, skills development, and robust mechanisms to enhance corporate responsibility are critical to ensure Indigenous people gain the access to essential services that all citizens should enjoy and that Indigenous communities can build on diverse development opportunities.

60. Investment in physical, community and social infrastructure needs a long-term focus. Indigenous Australia needs as much, if not more, than any other group in the population, to reap the benefits from major reforms to public investment vehicles. To

do otherwise would be to sanction a two-track reform and development process, whereby Indigenous communities are provided, yet again, with inferior services.

61. We recommend immediate and ongoing redress of the underinvestment in infrastructure and services for Indigenous communities, including utilising the Building Australia Fund, the Education Investment Fund and the Health and Hospital Fund to address Indigenous disadvantage. We note that this approach is highly consistent with the recommendations of the Ampe Akelyernemane Meke Mekarle Report which included:

That the Northern Territory and Australian Governments develop long term funding programs that do not depend upon election cycles nor are limited by short-term outcomes or overly bureaucratic reporting conditions and strictures.¹⁷

62. Mainstream services, all too often, continue delivery cultures and practices which are not inclusive for Indigenous clients and fail to meet critical needs. Seventy-five percent of Indigenous people live in non-remote locations and many Indigenous people whose homes are in remote locations, visit urban and regional centres for family, health, recreational and other reasons and access services in these centres.¹⁸ Reform of service delivery in these locations is essential to addressing Indigenous disadvantage and requires:

- enhanced and ongoing support for Indigenous specific and culturally appropriate services;
- extensive and ongoing investment in training and development for professionals across the full range of services;
- culturally appropriate support programs within mainstream services; and
- full accountability of mainstream services to Indigenous clients.

Recommendation 5:

Immediate and ongoing redress of the underinvestment in infrastructure and services for Indigenous communities, including utilising the Building Australia Fund, the Education Investment Fund and the Health and Hospital Fund to address Indigenous disadvantage.

¹⁷ Wilde and Anderson, above n 3, p 26.

¹⁸ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs 2001. *We Can Do It!: The Needs of Urban Dwelling Aboriginal and Torres Strait Islander Peoples*, Commonwealth Government of Australia, Canberra; Prout, S. 2008 *The Entangled Relationship Between Indigenous Spatiality and Government Service Delivery* CAEPR WORKING PAPER No. 41/2008.

Recommendation 6:

Urgent priority should be given at both national and state level to ensure:

- a. full access to primary health care and appropriate specialist services for all Indigenous people at a level which reflects their higher health care needs;**
- b. implementation of the set of targets agreed to at the National Indigenous Health Equality Summit in March 2008.**

Recommendation 7:

Government investment should seek to build on strengths and properly resource all Aboriginal and Torres Strait Islander community controlled services and culturally specific programs. Investments should ensure full funding of programs and approaches which have proven successful and enjoy community support, with the option to expand these programs where communities feel is appropriate. These may include:

- a. violence reduction, community night patrols, women and children's safe houses and expanded policing;**
- b. the Indigenous community controlled health sector including their social, emotional and mental health (non-clinical) wellbeing programs;**
- c. caring for Country, Ranger and Land Management Programs;**
- d. locally accessible, culturally appropriate and effective alcohol and substance abuse support systems, and healing and rehabilitation centres; and**
- e. community development and community worker support including for local community women's groups, men's groups, justice groups, grandmothers' groups, Elders' groups, youth workers (male and female); young mothers groups, youth diversionary programs, recreation activities, cultural centres and media initiatives.**

Recommendation 8:

Mainstream services should be fully accessible and accountable to Indigenous clients.