

CASTAN CENTRE FOR HUMAN RIGHTS LAW

The Northern Territory Intervention

An evaluation

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What is the Northern Territory Intervention?

The Intervention is the colloquial name for the Northern Territory Emergency Response (NTER). It is a wide range of complex and controversial measures that have been introduced since August 2007, when the Howard Government enacted *the Northern Territory National Emergency Response Act (NTNERA)* with bipartisan support.

The Intervention was directed at addressing the disproportionate levels of violence in Indigenous communities in the Northern Territory, as well as the endemic disadvantage suffered in terms of health, housing, employment and justice.

It was also a direct response to the *Ampe Akelyernemane Meke Mekarle* Report ('[Little Children are Sacred Report](#)') into sexual abuse of Indigenous children. This report was commissioned by the then Northern Territory Chief Minister Clare Martin following an interview on the [ABC's Lateline program](#), in which Alice Springs Senior Crown Prosecutor Dr Nanette Rogers SC commented that the violence and sexual abuse of children that was entrenched in Indigenous society was 'beyond most people's comprehension and range of human experience'. The then Commonwealth Minister for Families, Community Services and Indigenous Affairs, Mal Brough, indicated in his second reading speech introducing the NTNERA that "[t]his bill... and the other bills introduced in the same package are all about the safety and wellbeing of children."

The Little Children are Sacred Report was the result of in-depth research, investigation and community consultation over a period of over eight months by members of the Northern Territory Board of Inquiry. The focus of their inquiry was instances of sexual abuse, especially of children, in Northern Territory Indigenous communities. The findings were presented to Chief Minister Martin in April 2007 and released to the public in June. The striking facts, graphic imagery and ardent plea for action contained in this report saw this issue gain widespread attention both in the media and in the political agenda, inciting divisive debate and discussion.

The NTNERA was enacted by the Howard Government just two months after the report was released to the public, allowing little time for consultation with Indigenous communities. It was framed as a '[national emergency](#)' with army troops being deployed to Indigenous communities in the Northern Territory. This took place in the lead up to the 2007 Federal Election, in which the Labor Party under Kevin Rudd defeated the Howard Government after four terms of Liberal government.

The Intervention in 2007

The Intervention was a \$587 million package of legislation that made a number of changes affecting specified Indigenous communities in the Northern Territory. It included restrictions on alcohol, changes to welfare payments, acquisition of parcels of land, education, employment and health initiatives, restrictions on pornography and other measures.

The package of legislation introduced included:

- *Northern Territory National Emergency Response Act 2007.*
- *Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007.*
- *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007.*
- *Appropriation (Northern Territory National Emergency Response) Bill (No. 1) 2007-2008.*
- *Appropriation (Northern Territory National Emergency Response) Bill (No. 2) 2007-2008.*

In order to enact this package of legislation, several existing laws were affected or partially suspended, including:

- *Racial Discrimination Act 1975.*
- *Aboriginal Land Rights (Northern Territory) Act 1976.*
- *Native Title Act 1993(Cth).*
- Northern Territory *Self-Government Act* and related legislation.
- *Social Security Act 1991.*
- *Income Tax Assessment Act 1993.*

A raft of reforms and regulations were introduced by this package of legislation, including:

- Restricting the sale, consumption and purchase of alcohol in prescribed areas. This included the prohibition of alcohol in certain areas prescribed by the legislation, making collection of information compulsory for purchases over a certain amount and the introduction of new penalty provisions.
- 'Quarantining' 50% of welfare payments from individuals living in designated communities and from beneficiaries who were judged to have neglected their children.
- Compulsorily acquiring townships held under title provisions of the *Native Title Act 1993* with the introduction of five year leases in order to give the government unconditional access. Sixty-five Aboriginal communities were compulsorily acquired.
- Linking income support payments to school attendance for all people living on Aboriginal land, and providing mandatory meals for children at school at parents' cost.

- Introducing compulsory health checks for all Aboriginal children.
- Introducing pornography filters on publicly funded computers, and bans on pornography in designated areas.
- Abolishing the permit system under the *Aboriginal Land Rights Act 1976* for common areas, road corridors and airstrips for prescribed communities,.
- Increasing policing levels in prescribed communities. Secondments were requested from other jurisdictions to supplement NT resources.
- Marshalling local workforces through the work-for-the-dole program to clean-up and repair communities.
- Reforming living arrangements in prescribed communities through introducing market based rents and normal tenancy arrangements.
- Commonwealth funding for the provision of community services.
- Removing customary law and cultural practice considerations from bail applications and sentencing in criminal trials.
- Abolishing the Community Development Employment Projects (CDEP).

Changes under successive governments

After an initial focus on preventing child sexual abuse, successive federal governments re-designed and re-framed the Intervention. This involved linking the Intervention with the broader 'Closing the Gap' campaign, introducing new measures such as the BasicsCard and tougher penalties for the possession of alcohol and pornography. Changes were also made to the operation of the Racial Discrimination Act (see section on Human Rights). The current package of legislation retains the support of the Liberal Government and is due to expire in 2022.

2008 Changes

The Intervention was introduced in 2007 by the Howard Government, but a change of government in September of that year saw the Labor Government under Kevin Rudd gain power. After some consultation and minor changes, the NTNERA and associated legislation were initially maintained.

In 2008 Rudd apologised to the members of the Stolen Generations on behalf of the nation. In 2009, Rudd also declared support for the most substantive framework for the rights of Indigenous peoples, the UN Declaration on the Rights of Indigenous Peoples. The previous Howard government had voted against the ratification of this treaty. Article 3 of the Declaration states that:

'Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development'.

The failure to recognise this right to self-determination would become one of the major points of criticism for the Intervention.

In 2009 Rudd implemented the BasicsCard. The card is used to manage income in certain areas of the Northern Territory. It cannot be used to purchase alcohol, tobacco, tobacco-products, pornography, gambling products or services, home-brew kits or home-brew concentrate.

During the period 2009-2010 the Rudd Government committed itself to a re-design of the Intervention, with a focus on reinstating the suspended provisions of the Racial Discrimination Act (RDA). The *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010* (Cth) repealed the 'special measures' that had been created under the original Intervention to suspend the operation of the RDA. However, this new legislation still did not comply with the RDA as it continued to discriminate against Indigenous Australians through land acquisition and compulsory income management. These measures overwhelmingly affect Indigenous people.

The focus of the government then shifted slightly, concentrating more closely on the need to 'tackle the destructive, intergenerational cycle of passive welfare' (see then Minister for Families, Community Services and Indigenous Affairs Jenny Macklin's [second reading speech](#)). The Rudd government explicitly linked the Intervention to the 'Closing the Gap' targets, changing the focus of the Intervention from the protection of children from sexual abuse to the reform of the welfare system.

2012 changes

The legislative basis for the Intervention was due to expire in 2012. Decisions regarding its future had to be made. Under the Gillard Government, the *Stronger Futures in the Northern Territory Act 2012* (Stronger Futures) replaced the NTNERA and extended the Intervention for a further ten years to 2022. The *Stronger Futures* legislation comprises three principal Acts (the Stronger Futures package), plus associated delegated legislation. The three Acts are:

- *Stronger Futures in the Northern Territory Act 2012*;
- *Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Act 2012*; and
- *Social Security Legislation Amendment Act 2012*.

In 2013, the [Parliamentary Joint Committee on Human Rights examined Stronger Futures and the related legislation in their 11th Report](#). They noted that although the *Stronger Futures* legislative package repealed the Northern Territory Emergency Response ('NTER') legislation, it retained three key policy elements:

- The *tackling alcohol abuse measure*: the purpose of this measure was 'to enable special measures to be taken to reduce alcohol-related harm to Aboriginal people in the Northern Territory.
- The *land reform measure*: the land reform measure enabled the Commonwealth to amend Northern Territory legislation relating to community living areas and town

camps to enable opportunities for private home ownership in town camps and more flexible long-term leases.

- The *food security measure*: the purpose of this measure was 'to enable special measures to be taken for the purpose of promoting food security for Aboriginal communities in the Northern Territory'; modifying the legislation involves a 10 year timeframe with most provisions other than the alcohol measures being reviewed after 7 years.

The key changes imposed under the 2012 *Stronger Futures* legislation package consist of:

- Expansion of income management through the BasicsCard and the increase of 'quarantined' payments to 70%.
- Increased penalties related to alcohol and pornography, with as much as 6-months jail time for a single can of beer.
- Expansion of policy that links school attendance with continued welfare payments.
- Introduction of licences for 'community stores' to ensure the provisions of healthy, quality food.
- Commonwealth given power to make regulations regarding the use of town camps.

{Sources: [SBS Factbox](#), [Stronger Futures in the NT](#), [Listening but not Hearing Report](#)}

Although consultation with Indigenous communities did take place, there was much criticism of the nature of the consultative process and the extent to which it was acted upon. The '[Listening but not Hearing](#)' report by the Jumbunna Indigenous House of Learning concluded that "the Government's consultation process has fallen short of Australia's obligation to consult with Indigenous peoples in relation to initiatives that affect them".

The Australian Council of Human Rights Agencies has also stated that it was 'invasive and limiting of individual freedoms and human rights, and require[s] rigorous monitoring'. [Amnesty International commented](#) that the new package of legislation was the same as the original 'Intervention, but with the pretence of being non-discriminatory.'

2014 changes

The current Intervention legislation is not due to expire until 2022. During his time as Opposition Leader, Tony Abbott [supported extending the intervention](#) into the future.

In a speech in February of 2014, then Prime Minister Abbott identified the importance of closing the gap through investment in indigenous programs, with a specific focus on school attendance. However, this speech was followed by massive budget cuts to Aboriginal legal and health services, early childhood education and childcare, and the consolidation of 150 Indigenous programs into 5 core programs. While the 2015 Budget reinstated funding to Family Violence legal services, these ongoing cuts are expected to detrimentally affect attempts to Close the Gap of Indigenous disadvantage.

The [2015 Budget modified](#) the Stronger Futures NPA, redirecting \$988.2 million in funds to the new National Partnership Agreement on Northern Territory Remote Aboriginal Investment (NPA) over eight years. This new NPA prioritises schooling, community safety and employment.. This funding

July 2015

also aims to help the Northern Territory Government take full responsibility for the delivery of services in remote Indigenous communities. Additional funding will also be made available to extend the income management scheme until 2017. However, the new NPA has halved the spending allocated to health measures, and means that the Federal Government will have less control over target outcomes.

Government administered funding of \$1.4 billion, previously available under Stronger Futures, will not be transferred to the new NPA, but will be delivered by the departments of Prime Minister and Cabinet and Social Services, outside the NPA framework. The new NPA will be complemented by a Remote Indigenous Housing Strategy that will [receive \\$1.1 billion nationally](#).

The Intervention and the Closing the Gap Campaign

In 2008, following the change of government after the 2007 Federal Election, the Rudd Labor Government re-framed the Intervention through a new national policy focus on 'Closing the Gap'. Rudd's intention to re-work the Intervention to focus more closely on reforming the welfare system linked closely with the already existing targets of the Close the Gap Campaign. The aims of the campaign are set out in the [2012 National Indigenous Reform Agreement](#).

The Council of Australian Governments (COAG) had identified six areas of Indigenous disadvantage to target as the basis for the Closing the Gap Campaign. These were:

- 1) Early childhood;
- 2) Schooling;
- 3) Health;
- 4) Economic Participation;
- 5) Safe Communities; and
- 6) Governance and Leadership (see Right to Self Determination below).

The Closing the Gap in the Northern Territory National Partnership Agreement (2009) ceased on the 30 June 2012. The Stronger Futures in the Northern Territory package which started on 1 July 2012 continued to support the Closing the Gap reforms.

The 6th Annual Progress Report on Closing the Gap was tabled in Parliament by then Prime Minister Tony Abbott on 12 February 2014. It outlined the commitments made by the Coalition government, including:

- Consolidating the administration of Indigenous programs from eight government departments into the Department of the Prime Minister and Cabinet.
- Establishing the Prime Minister's Indigenous Advisory Council
- Increasing indigenous school attendance through providing \$28.4 million funding for a remote school attendance program.
- Improving indigenous access to employment by commissioning a review and funding employment initiatives.
- Supporting a referendum for the recognition of the First Australians in the Australian Constitution.

However, in the seventh annual progress report of 11 February 2015, then PM Tony Abbott labelled progress as 'profoundly disappointing'. The report concluded that 4 out of 7 targets were not on track to be met by their deadlines, with little progress in literacy and numeracy standards and a decline in employment outcomes since 2008.

Issues with Evaluating the Intervention – how did we work out our grades?

The lack of impartial data available has impacted on the quality of the debate surrounding the Intervention. While a large number of reports have been undertaken, most are commissioned by government. Some reports have been criticised for relying on favourable figures to the exclusion of other data. Significant issues with the quality of statistical data available further impede the ability to reliably evaluate the effectiveness of the Intervention.

Quantity of Evaluation: The controversial nature of the Intervention and the need for expenditure to be accounted for has meant that there have been a large number of evaluations undertaken regarding various aspects of the Intervention. Within five years of the establishment of the Intervention, by December 2012, 98 reports, seven parliamentary inquiries and hundreds of submissions had been completed. However, the sheer quantity of these reports actually hinders the evaluation process, as it obstructs proper evaluation of effectiveness.

Impartiality of Evaluation: The majority of evaluations of the Intervention have been undertaken by government departments and paid consultants. Australian National University researchers Jon Altman and Susie Russell suggest that the evaluation of the Intervention, instead of being an independent objective process, has been merged into the policy process and, in many cases, is performed by the policy-makers themselves. This means there is a real risk of evidence being ignored or hidden to suit an agenda.

Independent reports and government commissioned reports have often contradicted each other, with the [government seeking to discredit independent reports](#) rather than gathering additional data. This includes independent reports by researchers at [Jumbunna Indigenous House of Learning](#) at the University of Technology Sydney, [Concerned Australians](#) and the [Equality Rights Alliance](#), all of which have often come to different conclusions than government reports.

Quality and Consistency of Evaluation: The ‘final evaluation’ of the Intervention under the NTNER occurred in November 2011 with the publication of the [Northern Territory Emergency Response Evaluation Report](#). However, the *Stronger Futures* legislation did not come into effect until August 2012. This left eight months unaccounted for.

Closing the Gap in the Northern Territory Monitoring Reports are conducted every six months. A significant criticism is that they focus on bureaucratic ‘outputs’ rather than outcomes. Income management studies, for example, have reported on ‘outputs’ such as the number of recipients of the Basics Card or the

total amount of income quarantined, rather than focusing on the card's effectiveness for health and child protection outcomes.

Much of the data collected has also relied on self-assessment in the form of surveys, such as asking individuals to rate their own health rather than collecting and analysing data on disease. Another issue is the ad hoc nature of some reports. For example, the review of the Alcohol Management Plan in Tennant Creek was only conducted once. This makes it difficult to make comparisons over the life of the policy and evaluate the effectiveness of particular measures.

Independent statistical data can be hard to find, since information compiled by the Australian Bureau of Statistics is national in scope and cannot be translated directly into the context of the individual Indigenous communities in the Northern Territory. Indigenous Australians also have a lower median age than other Australians, meaning data on employment rates or incarceration rates can be statistically skewed.

Benchmarks for Evaluation: ANU researchers [Jon Altman](#) and [Susie Russell](#) have noted that the “absence of an overarching evaluation strategy has resulted in a fragmented and confused approach”. They found that the 2007 Intervention did not have any documentation articulating the basis of the policy, nor how it should be evaluated. The first document to address this was the unpublished *Program Logic Options Report* which was developed in 2010; three years after the Intervention began. This means that there are no original benchmarks for evaluation, and that the decision to extend the program in 2012 was made without clear evidence as to its effectiveness. Furthermore, there is a limited connection between the benchmarks proposed in the 2010 Report and those used in later evaluations.

The Intervention and Closing the Gap targets, have they been reached?

Employment and Economic Participation – 3/10

While measurement is difficult, the data that is available suggests that little progress has been made on improving employment outcomes in the Northern Territory, and the gap is, in fact, widening.

After moving from a focus on protecting children, the employment initiatives introduced under the Intervention were refined and extended. In 2008, the Council of Australian Governments (COAG) introduced the *National Integrated Strategy for Closing the Gap* as part of a new 'integrated approach to employment services'. A number of employment services were brought together, including Job Services Australia (JSA), Indigenous Employment Program (IEP) and Community Development Employment Projects (CDEP). However, this package of programs [has been criticised](#) as 'fragmented', 'inflexible' and 'unresponsive to community needs'.

A [specific employment package](#) for the Northern Territory worth \$75.4 million was also implemented through Community Employment Brokers, which included work-for-the-dole, job network services and structured training and employment projects. These reforms aimed to promote economic independence and participation in the economy, as well as skill acquisition and employer support. It was hoped that in the long term these reforms would engage people in the mainstream economy and improve employability and personal responsibility, with flow on effects to families and communities.

In July 2009, the CDEP program was discontinued in all non-remote communities and all CDEP participants were moved onto income support payments to encourage employment in the mainstream economy. Existing participants in remote communities would continue receiving wages until 2011 (later extended to 2017, then cut back to July 2015). Many of the community development projects that had been operating were assisting with the psychological traumas passed through the generations or providing essential services such as safe houses and community educations and activities. In 2012, legislation was enacted to create 50 new jobs and 100 traineeships; however the CDEP program had previously employed 7,500 individuals.

Remote Jobs and Communities Program (RJCP) was created in 2013 to replace and streamline the existing programs. It focused on community ownership and skill training in activities that benefited

the community. 'Mutual obligation' activities meant that recipients had to work 15-20 hours per week in accordance with Individual Participation Plans. From July 1 2015, the RJCP was renamed the Community Development Programme and extended to 5 days [per week](#).

The [Australian Bureau of Statistics has stated](#) that it is difficult to obtain accurate statistics on indigenous communities in the Northern Territory due to small numbers and wide dispersion, especially in remote areas across the territory. The indigenous population also has more young people, which can skew employment figures when compared to non-indigenous populations.

The numbers: From 2008-10 there were [over 2000 jobs created](#) in the Northern Territory, which corresponded with a 9% increase in the number of Indigenous people employed in non-CDEP jobs. But despite the government's efforts to transition to a reliance on the mainstream economy for employment, only a third of the Indigenous population held non-CDEP jobs in 2011, compared to four-fifths of the non-Indigenous population. On top of this, [1357 Indigenous people](#) were employed in service industries directly reliant on the Intervention during 2012-13.

The gap between the Indigenous and non-Indigenous unemployment rates throughout the Northern Territory have widened slightly, from 10% at the start of the Intervention to more than 11% in 2011.

The labour force participation rate for Indigenous Australians in the Northern Territory decreased between 2007-11, which along with increased non-Indigenous participation rates, caused the gap to increase over 17%. However, this decreased participation may be a result of CDEP programs ceasing, which [had inflated the pre-2009 'employed' statistics](#).

The [income gap](#) between Indigenous Northern Territorians and their non-Indigenous counterparts has also increased. The median household income of Indigenous households grew at a slower rate than non-Indigenous households. Likewise, the gap between personal income levels has also widened in the Northern Territory, despite narrowing in other states. This indicates that the Northern Territory-specific policies that have been implemented are actually having a negative impact on income levels. As such, the number of people on income support increased significantly from 2009-10 before decreasing slightly from 2011-12.

Evaluation: Communities feel that the increase in employment is beneficial. However, the cancellation of the CDEP program and replacement with the RJCP has not been accompanied by additional job creation in the mainstream economy. The demand for employment in the relevant areas of the Northern Territory has outstripped the number of jobs available, and government efforts to provide jobs have been insufficient. This is especially the case [in remote communities](#) where there are limited employment opportunities. Where jobs have been created, the [government has acknowledged](#) that they are dependent on ongoing funding and provide few avenues for career progression or mobility. Community feedback reflects similar concerns. In the 2011 [Community Safety and Wellbeing Research Survey](#), most Indigenous respondents commented that more employment and training opportunities were needed.

The fly-in, fly-out model of the Community Employment Broker program [has been criticised](#) for leading to an array of new faces and limited understanding on the client base. The lack of consistent contact has meant that the establishment of a 'participation culture' [has been described](#) as

challenging due to the difficulties in enforcing 'mutual obligation requirements' in remote communities.

In March 2015, the Commonwealth announced several initiatives designed to boost employment opportunities for Aboriginal and Torres Strait Islander peoples. These included a workforce participation target and an Indigenous Procurement Policy (see Aboriginal and Torres Strait Islander Commission, Social Justice Commissioner, [Social Justice and Native Title Report, 2015, p. 52](#)). It is too early to see what impact if any these initiatives may have in the Northern Territory. However, the [Aboriginal and Torres Strait Islander Social Justice Report 2015](#) expressed disquiet about the continuation of the Work for the Dole and Community Development Programme in remote communities.

Barriers to the effective implementation of employment packages remain. The lack of transport infrastructure, low education levels and investment uncertainty due to ongoing land tenure changes have all contributed to the failure to meet this target.

Education – 5/10

There have been some gains in certain education areas since the beginning of the 2007 Intervention and the 2008 Closing the Gap Campaign. However, overall secondary school attendance rates have seen a considerable decrease and NAPLAN results indicate little change in literacy and only incremental improvements in numeracy at both primary and secondary levels.

There are complex technical and practical barriers involved in the delivery of education services in the Northern Territory, particularly for remote indigenous communities. These difficulties are often compounded by cultural barriers and historical inconsistencies in educative approaches. Past efforts at education have resulted in “uncoordinated projects, unrelated initiatives and an absence of coherence and consistency.”

A gradual increase in Indigenous primary school attendance over the decade from 2002-12 has not been matched by secondary school rates, with high school attendance dropping by nearly 10% over the decade. Intervention communities in the Northern Territory recorded an average of only 60% attendance in 2012.

However, school attendance has been recognised as only one part of the story, with a broader focus now being taken on engagement, attendance and participation.

Target #1: Ensure access to early childhood education for all Indigenous four year olds in remote communities by 2013

NOT MET.

This target was set at 95% enrolment, since pre-school is not generally compulsory for four-year old children. This [target was not met by 2013](#), with only 85% of four-year old Indigenous children enrolled in preschool. Additionally, there is a recognition that enrolment does not necessarily equate to attendance, with [only 79% of enrolled children actually attending](#) preschool in the Northern Territory in 2012.

Pre-school enrolment actually peaked in 2011, with 91% of pre-school aged Indigenous children enrolled. However, the [government has claimed](#) that the falling percentage is due to improvements in record-keeping through the removal of duplications. Actual numbers of enrolments are increasing, with an extra 421 Indigenous children enrolled over the period from 2009-13.

In spite of widespread support towards achieving this target, there are still concerns that access and enrolment in pre-school in itself is not a definitive solution to the disadvantages faced by Indigenous children. Programs such as the Home Interaction Program for Parents and Youngsters, and Families as First Teachers are seeking to address this through equipping parents and family groups to make their children school-ready.

The Australian Early Development Index (a population measure of how children are developing across Australia) indicates that there is still a strong correlation between being an Indigenous child in the Northern Territory and high levels of disadvantage in early childhood learning. [A key finding](#) in 2012 was the Indigenous children and children in remote areas are more than twice as likely to be developmentally vulnerable than their non-Indigenous counterparts.

Target #2: Halve the gap in reading, writing and numeracy achievements for Indigenous Australian children by 2018

NOT ON TRACK TO BE MET.

This target is measured using the outcomes of the annual National Assessment Program – Literacy and Numeracy (NAPLAN). The gap is measured from the proportion of Indigenous students at or above the national minimum standards (NMS) compared to non-Indigenous students of the same year level.

Progress on this target has been disappointing so far, with the 2014 NAPLAN results showing that 64% of indigenous students in the Northern Territory are below the NMS in reading and writing, compared to 6-10% of non-indigenous students. Results are similar for numeracy tests. Therefore, around 50% more indigenous students fall below the NMS in literacy and numeracy than non-indigenous students across all year levels. None of the areas have shown a statistically significant improvement since 2008. The only areas that are on track to be met are Year 7 reading and Year 9 numeracy.

The gap worsens when comparing remote or very remote Indigenous students, with up to 85% falling below the NMS in reading and writing in year 3, and over 90% by year 9. Around three-quarters of the same students are below the NMS in numeracy across their schooling life as well.

The result of NAPLAN data specific to the Northern Territory shows that the Indigenous cohort performs worse than equivalent cohorts across all geo-locations and year levels in Australia. This is even worse for very remote Indigenous students, who are already two years behind in their writing

skills by Year 3 and up to five years behind by Year 9 compared to comparable non-indigenous students in similar locations.

This has the result of very few students, especially in remote areas, attaining their NTCET certificate at the end of their schooling.

Target #3: Halve the gap for Indigenous students in Year 12 (or equivalent) attainment rates by 2020

Over recent years, the number of Indigenous students that are staying in school through to the completion of Year 12 is increasing. This has [narrowed the gap to 28%](#) in 2013 meaning that this target is on track to be met.

Australia-wide, data from the 2011 Census shows that Indigenous completion rates have increased 5% since 2006. The Australian Aboriginal and Torres Strait Islander Health Survey indicated a further rise of 6% up to 2013. This has narrowed the gap by 11%.

There is very little separate data relating to Northern Territory Indigenous students. The number of NTCET certificates attained by Indigenous students in the Northern Territory [declined slightly](#) in 2012. However, the total number of Indigenous students obtaining equivalent results has increased slightly since 2008 due to the inclusion of alternative pathways such as VET participation, work placements or school-based apprenticeships to achieve this target.

While improvements in Year 12 or equivalent attainment are welcome, most of the gains have been accomplished in urban and provincial areas. Results vary sharply by remoteness area, with [50% fewer indigenous people](#) completing Year 12 in remote areas.

Target #4: Close the gap between indigenous and non-Indigenous school attendance by 2018

A recent survey by [ANU researcher Dr Nicholas Biddle](#) found that around 20% of the gap in school performance (target #2) can be accounted for by poor attendance rates of Indigenous students. As a result, this target was added to the Closing the Gap goals in 2014 by COAG, and has a baseline of 2014.

The Northern Territory has the widest gap in school attendance rates, and the gap increases as the students move into secondary school. Only one in ten schools in the Northern Territory meet the benchmark of having a rate of at least 90% attendance by Indigenous students. Additionally, [less than a quarter](#) of Indigenous students in very remote areas of the Northern Territory attend secondary school regularly. Only [40%](#) of indigenous students attend school at least 4 days a week.

In 2014, the government introduced the [Remote School Attendance Strategy](#) (RSAS), which resulted in a 13% rise in school attendance across RSAS schools in the Northern Territory.

Health and Life Expectancy – 4/10

There have been some improvements to Indigenous child mortality with this target on track to be met by 2018. However, despite narrowing the gap in life expectancy, the rate of improvement is far too slow to close the gap. The situation is particularly bad for Indigenous people living in the Northern Territory, whose life expectancy is nearly 15 years shorter than non-Indigenous Australians.

The National Aboriginal and Torres Strait Islander Health Plan is a framework designed to guide future investment in Indigenous health care until 2023. An Implementation Plan is currently being developed.

On 1 July 2014, the government established the Indigenous Advancement Strategy, which combined over 150 programs into 5 streams, one of which is Safety and Wellbeing. Alongside this, the Indigenous Australians Health Program consolidated 4 previous funding streams to reduce costs and provide better flexibility of services. This program now encompasses primary health care, maternal and child health care, the Stronger Futures Health stream and a chronic disease fund. The government also dedicated \$11.9 million to increasing access to essential primary health care for Indigenous people living in remote areas of the Northern Territory.

The Care for Kids' Ears program has achieved a 4% decrease in the number of Indigenous children with hearing conditions through raising awareness and promoting check-ups, but the rate remains double that of the non-Indigenous population.

Target #1: halve the gap in mortality rates for Indigenous children under 5 by 2018

ON TRACK TO BE MET.

A baseline of 1998 was chosen for this target so that trends would be more easily identifiable over the longer timeframe. Since 1998, child mortality rates have declined in Indigenous communities by 31%, resulting in a narrowing of the gap by over a third. The rate of improvement has slowed since 2006, however the target remains achievable.

This result means that, compared to 1998, seventy-one more Indigenous babies per thousand are surviving past their fifth birthday every year. However, despite concrete gains being made, Indigenous children are still twice as likely to die under the age of five relative to non-Indigenous children.

The leading cause of Indigenous child mortality in infants (<1yr) is pregnancy complications and disorders in fetal growth. The last decade has seen a [9% decrease in low birthweight babies](#) as well as a 4% decrease in women smoking while pregnant (although this rate is still 4 times higher than non-Indigenous women). The leading cause for child mortality in Indigenous children between 1-5 years old is injury and poisoning.

Child mortality rates are significantly influenced by factors such as the mother's smoking habits, diet, exercise, socio-economic status and education level. Therefore, further reductions to child mortality rates will require an integrated approach. The Better Start to Life program has been expanded to improve access to child and maternal health programs.

Target #2: close the life expectancy gap within a generation (by 2031)

NOT ON TRACK TO BE MET.

The national gap between Indigenous and non-Indigenous death rates has [decreased by 15%](#) since 1998, however little progress has been made since 2006. At the rate the gap is currently narrowing, it will take 495 years to 'close the gap'. Therefore, more action needs to be taken as this target is not on track to be met.

In 2012, when the last statistics on life expectancy were collected, the gap had only decreased by 0.8 years for males and 0.1 years for females since 2005. This was partly due to gains made by the non-Indigenous population at the same time. [The 2015 Close the Gap Report noted that such a small improvement may actually be statistically insignificant](#) as it is within the margin of error and could in fact mean that the small improvement in life expectancy is non-existent. The next data on life expectancy will be collected by the Australian Bureau of Statistics in 2018.

In the [Indigenous Reform 2012-13: Five Years of Performance](#) report, the COAG Reform Council has expressed particular concern for Indigenous people living in the Northern Territory, especially women. Male life expectancy is only 63 years, while female life expectancy has actually fallen 0.7 years since 2005 to 68.7 years. Therefore, Indigenous Australians living in the Northern Territory are expected to live 6 years shorter than Indigenous people in other parts of Australia. Additionally, the Northern Territory has the largest gap between Indigenous and non-Indigenous life expectancy, with Indigenous men and women both expected to live 14.4 fewer years (compared to 10 years nationally).

Other 'gaps': chronic disease and mental health

In several other areas not specified as 'Closing the Gap' targets, Indigenous health is actually getting worse. Rates of disability and chronic disease amongst Aboriginal and Torres Strait Islander people [rose from 21 to 23 per cent](#) between 2009 and 2013. Three quarters of Indigenous

deaths were [classified as potentially avoidable](#) during this period, compared to two thirds of non-Indigenous deaths. Indigenous Australians are [3 times more likely](#) to have diabetes and twice as likely to have chronic kidney disease as the non-Indigenous population. This likelihood increases 2.5 times for people living in remote areas. Additionally, Indigenous Australians tend to develop these chronic diseases at an earlier age. These chronic diseases account for [81% of the health gap](#) that currently exists.

Co-morbidity is also an issue since these conditions often intersect. [70%](#) of Australia's Indigenous population are overweight or obese, which further increases the risk of chronic disease. Smoking also increases the risk of respiratory disease, although Indigenous smoking rates have [declined 10%](#) in the decade from 2002-12.

The gap between Indigenous and non-Indigenous mental health is also getting wider. [Poor mental health](#) can also be a risk factor for chronic disease. Just under a third of the indigenous population reported high levels of psychological distress. Indigenous rates of suicide are twice as high as in non-indigenous populations and their rate of hospitalisation for self-harm has risen 50% since 2004. There have been some successes, such as a [40% decrease in circulatory disease](#) since 1998. However, overall chronic disease rates have increased 2% from 2009-13. In 2015, the Healthy for Life program was granted \$36.2 million to expand its work on the management of chronic disease in Indigenous communities.

Safer Communities – 4/10

‘Safer Communities’ is one of seven building blocks introduced under the National Indigenous Reform Agreement as part of the Closing the Gap Campaign. This aims to make Indigenous communities safer through a focus on the prevention and reduction of crime rates, alcohol and drug abuse, family violence and child abuse. It takes a ‘tough stance’ on crime but couples this with community protection and education efforts.

Although aiming for ‘safer communities’ is not an actual target of the Closing the Gap Campaign, the goal of reducing child abuse was the impetus behind the first phase of the Intervention in 2007. Actual measurements of improvements in this area are difficult to quantify. For example, it is difficult to tell whether an increase in reported assaults is a result of more assaults occurring, or of improved policing. Conversely, a decline in assaults may be the result of decreased willingness on the part of victims to report to police. However, in the [Community Safety and Wellbeing Research](#) study of 2011, 72% of Indigenous people in the Northern Territory reported that they considered their community to be safer now.

Family Violence and Child Abuse

Child Abuse: The Little Children Are Sacred report prompted the establishment of the Intervention in 2007 to address the perceived ‘national emergency’ of Indigenous child abuse rates. [Data from 2013 shows](#) that Indigenous children are “substantially over-represented in every area of the child protection system” and are up to eight times more likely to be the subject to substantiated reports of harm. However, it should be noted that while the report focused on child abuse, [over 85%](#) of reported cases are actually related to child neglect.

Between 2007-12, the total number of [people convicted](#) for child sexual assaults in Intervention communities was 45. In the four years prior to the Intervention, 25 people had been convicted.

Family Violence: Family violence refers to violence perpetrated by any family member (including extended relations) against any other family member, whereas domestic violence more commonly refers to violence against an intimate partner, whether it occurs in a public or private setting.

Indigenous women are [34 times more likely](#) to be hospitalised for family violence-related assault than non-Indigenous women. In indigenous communities, nearly half of all homicides are committed by an intimate partner.

Measures taken

In 2006, prior to the start of the Intervention, the National Indigenous Violence and Child Abuse Intelligence Task Force (NIITF) was established under the Australian Crime Commission. Its role was to collect and analyse data about violence and child abuse, using coercive powers to gather such information if necessary

In 2008, a fly-in Mobile Outreach Service Plus project was launched to provide counselling and support services for child abuse-related trauma in remote Northern Territory communities. In 2013, this project began operations from regional service centres to provide more consistent assistance.

In 2009, fourteen government funded Women's Safe Houses were opened throughout remote communities of the Northern Territory. They are intended to provide a safe environment for women and children who are escaping domestic and family violence. The Remote Aboriginal Family and Community Worker Programme is staffed by Indigenous locals in 21 remote communities to promote early intervention in child protection and family support. Education has been provided for remote health and community workers through workplace training and development programs to increase their capacity to respond to child abuse and other related trauma.

In 2012, the Alice Springs Family Safety Framework commenced under *The National Plan to Reduce Violence against Women and their Children 2010-2022* as an integrated service response for people at high risk of family or domestic violence. It received 114 referrals within its first 20 months of operation. The 2013 Child, Youth, Family and Community Wellbeing Implementation Plan was implemented to streamline frontline services offered to families. A Cross Border Domestic Violence Information Sharing project was introduced alongside this to protect victims of domestic violence across the NT, SA and WA borders.

Various Northern Territory laws have been enacted since the start of the Intervention to make reporting child abuse mandatory. These include s124A of the *Domestic and Family Violence Act 2009* and s26 of the *Care and Protection of Children Act 2007*.

There are a number of services in place with the aim of rehabilitating offenders and avoiding future conflict. The Indigenous Family Violence Offender Program is a 50-hour program delivered by local Indigenous elders that has operated in the Northern Territory since 2005. Cooling Down Places give men a place to 'cool off' and avoid possible conflict at home, as well as providing information and support.

Results

Child Abuse: There have been mixed results regarding the protection of children from child abuse in Indigenous communities

On the one hand, Indigenous children have experienced increased access to Indigenous child protection services. Such access increased by 2.5 times in the Northern Territory between 2006-11. The largest increases occurred in remote areas, and the increase outstripped all other states. While the total number of reported child abuse incidents increased between 2007-10, most likely due to

the introduction of mandatory reporting legislation, the numbers have steadily declined from 2010-12.

On the other hand, there has been a 69% increase in Indigenous children being placed in out-of-home care due to no longer being able to live with their parents. This makes them 4 times more likely to not be living with their parents than non-Indigenous children. Additionally, reported attempts of suicide or self-harm by Indigenous children are also up by almost 500%.

Family Violence: Efforts to reduce rates of family violence in Indigenous communities have not been successful. The rate of hospitalisation of Indigenous women remained constant, and they are still 6 times more likely to suffer violence from an intimate partner than non-Indigenous women.

There has been a [dramatic increase](#) in the number of family violence cases, which is likely an effect of both extra policing and mandatory reporting. The rate of increase seems to have slowed according to the most recent figures from 2013-14, which report only a 3.2% increase. However, this suggests that programs that have attempted to address family violence in the Northern Territory have been ineffective.

The Women's Safe Houses provided safe accommodation to [312 women](#) and 394 children during 2012-13.

Crime

The Indigenous community experiences a [higher rate of contact](#) with the criminal justice system than the non-indigenous. Indigenous people are [5 times more likely](#) to be the victim of homicide than non-Indigenous people, but in nearly all cases the perpetrator is known to the victim. However, the [most common crime against the person is assault](#), accounting for between 80-92% of these offences depending on the community. A significant number of these offences were [alcohol related](#), and involved [family violence](#).

Measures taken

In 2008-9, the [Australian Federal Police deployed](#) 66 police to the Northern Territory to maintain law and order in 18 priority remote communities. \$18.5 million of Commonwealth funding was allocated to support the exercise. Five new police stations were built throughout the Northern Territory during 2011-12. Community Engagement Officers were trained to improve relationships between police and local indigenous people.

The Commonwealth government also committed \$17.7 million to night patrol services in 80 indigenous communities. This service provides transport to a safe place, refers people to additional services and intervenes to limit 'antisocial behaviour'. The program was expanded to include another 7 communities in 2012.

The Community Safety and Justice Implementation Plan was signed in 2013 to support ongoing improvements in community safety in remote Northern Territory communities. A Safe Streets Audit was commissioned in 2014 to help inform effective strategies to reduce crime rates in the Northern Territory. The Government has committed to funding for 4 new police stations to be built in remote Northern Territory communities by 2019.

Results

72% of people in Intervention communities now consider their communities to be safer, and remote communities in the Northern Territory have reported that [neighbourhood conflict levels](#) have nearly halved. However, there have been suggestions that the government's approach to crime management has not been culturally sensitive. It has also failed to include proper consultations with Indigenous communities. In a 2009 report by the [Jumbunna Indigenous House of Learning](#), an Indigenous elder was quoted as saying that "we feel that the intervention offers us absolutely nothing, except to compound the feeling of being second class citizens. The only thing that we have gained out of the intervention is the police."

[Assault rates](#) fell from 2010-11 before increasing again in 2012. However, a disproportionate number of these crimes occur in 'emerging hotspots'. During 2012-13, the night patrol service assisted in over [88,000 incidents](#) and provided 331 jobs for Indigenous people in remote communities.

Alcohol and Drugs

Alcohol remains a significant issue in Indigenous communities across the Northern Territory. It has been cited as the "biggest cause of crime" in the Territory and also contributes to ongoing Indigenous disadvantage through reduced life expectancy, poor health, reduced education and employment outcomes and decreased community safety.

The 2010 National Drug Strategy Household Survey indicated that Indigenous Australians who drink alcohol are 1.5 times more likely to do so at risky levels compared to non-Indigenous people. The alcohol induced [death rate](#) is five times higher for Indigenous people and they are 12 times more likely to be hospitalised for acute alcohol intoxication. Alcohol consumption during pregnancy also contributes to a higher prevalence of Fetal Alcohol Spectrum Disorder amongst Indigenous communities.

Drugs are also an issue in Indigenous communities. The Northern Territory has the highest proportion of people using illicit drugs with [23%](#) reporting personal use of illicit substances in 2013. The Northern Territory also had up to 13% more smokers compared to other states. [Remote Indigenous communities](#) are more likely to engage in risky alcohol consumption and smoking, but less likely to use illicit drugs.

Measures taken

Under the Intervention, all Aboriginal land in the Northern Territory was designated as a 'prescribed area'. Alcohol was banned in all these areas and police were empowered to randomly search and seize alcohol. The [Income Management](#) scheme through the BasicsCard also restricted the use of income payments to purchase alcohol or drugs.

The Commonwealth government provided \$9.5 million funding for an Alcohol Diversionary Activities Package in 2008-9. This was aimed at young people to provide a range of activities as an alternative to drugs and alcohol abuse.

\$2.6 million was allocated in 2011-12 to reduce impact of alcohol and drugs on the local community. This included increased capacity and staff for drug and alcohol treatment and rehabilitation services, as well as workforce education. A further \$67.4 million was provided nationally to fund culturally appropriate prevention, intervention, treatment and rehabilitation programs for remote and regional areas.

In 2011, the Federal Government allocated \$91.5 million nationally to expand the Petrol Sniffing Strategy, which has been in place nationally since 2005. Under this scheme, low-aromatic Opal fuel was introduced in 39 selected Northern Territory communities.

The Breaking the Cycle program, granted \$20 million funding nationally from 2011-14, was implemented to address alcohol and substance abuse issues through community led responses and Alcohol Management Plans. This program has since been brought under the 2013 Tackling Alcohol Abuse Implementation Plan and 19 communities now have alcohol management plans in place.

The NT Government has also made efforts to make 'prohibited material' signs more respectful, with new signs being designed and worded by communities.

Results

Despite the [per capita levels of alcohol consumption](#) falling steadily since 2005, the Northern Territory is still 30% above the national average. Alcohol restrictions have caused the annual supply of alcohol to [drop 2.5% per year](#), but the [bans have been circumvented](#) in Indigenous communities through home brewing, illicit alcohol trafficking and leaving prescribed areas to drink.

Substance abuse-related incidents have increased [37%](#) between 2010-12, with over two-thirds of the increase caused by alcohol-related incidents. Drug related incidents have remained stable.

Lowered Incarceration rates – 0/10

Since both the Intervention in 2007 and the Close the Gap campaign in 2008, not only has there been no improvement in relation to incarceration rates for Indigenous Australians, the rate of Indigenous Australians being incarcerated has continually risen. There is currently no target concerning Indigenous incarceration rates. Failure to make incarceration rates a Closing the Gap target has been controversial. In 2015, the Closing the Gap Steering Committee [proposed](#) that lowering imprisonment rates should be a Closing the Gap target. The Castan Centre supports this view.

Indigenous imprisonment has [been at its highest point for a decade](#) and there is an increasing and inordinate amount of Indigenous Australians being incarcerated. This has been recognised as the most significant [social justice and public policy issue](#) for the Australian criminal justice systems.

According to the [Australian Bureau of Statistics \(2011\)](#), Indigenous Australians comprise 3% of the Australian population and [about 27% of the prison population](#). This means that one in four of all people incarcerated in Australia are Indigenous Australians. The incarceration rates for youth are higher, with Indigenous Australians making up 52% of all youth in detention. [According to the Australian Institute of Criminology \(2015\)](#), Juvenile Indigenous Australian offenders aged between 10-17 years are 14 times more likely to be in youth detention than non-Indigenous offenders of the same age.

In the Northern Territory, Indigenous Australians make up 86% of the prisoner population and 96.9% of the juvenile detention population (both the highest Indigenous Australian persons as a percentage of total prisoner population). It is noteworthy however that almost a third (30%) of the total Northern Territory population is made up of Indigenous Australians. Even prior to the Intervention, the Northern Territory had the highest incarceration rate in Australia. During the first five years of the Intervention however, there was a [41% increase](#) in incarceration rates – this figure includes both Indigenous and non-Indigenous prisoners.

In the first stages of the Intervention in 2007, 18 new police stations were built in the identified Intervention communities (remote Indigenous communities). The Australian Crime Commission (ACC) was granted greater powers for investigations into child abuse in Indigenous communities, removing the right of silence for respondents and the right to freely disclose proceedings. A recent [report](#) found that the increase in incarceration can be largely explained by greater police presence and powers.

The issue of incarceration rates gained traction with the [Royal Commission into Aboriginal Deaths in Custody](#) (RCIADIC) that began in 1987 with the final reports submitted in 1991. In the two decades since the Royal Commission, very few of the recommendations in those reports have been implemented. The Universal Periodic Review (UPR) echoed many of the RCIADIC recommendations. Poor relations with police, alcohol and substance abuse, deficient education, unemployment,

inadequate housing and entrenched poverty are factors that were all identified as contributing to the severely disproportionate incarceration rates of Indigenous Australians by the Royal Commission in their final report remain as such today.

Closing the Gap between incarceration rates of Indigenous and non-Indigenous Australians is not one of the set specific targets for the Closing the Gap agreement. Recommendation 1.8 of the Social Justice Report in 2012 strongly urged that the COAG Closing the Gap agreement include incarceration rates under criminal justice targets to ensure renewed commitment to implementation of the RCIADIC recommendations and an overall coordinated and holistic response to the issue.

The Close the Gap campaign Steering Committee also proposes that urgent, coordinated action from government to address overrepresentation in incarceration rates should be included as one of the nationally agreed targets. This is particularly pressing given the prevalence of mental health conditions, substance abuse problems and general health-related impacts in prisons. Incarceration can then severely undermine employment prospects leading to financial and emotional stress on the person as well as their families.

In December 2014, a new s 133B was introduced to the Northern Territory Police Administration Act providing for 'paperless arrest'. This provision significantly broadened the police power of arrest. There was no requirement to bring the person before a court as soon as practicable, or that the period of detention be reasonable for questioning the person in relation to a relevant offence. These provisions have attracted widespread criticism for their likely disproportionate impact on Indigenous people, and were [subject to a High Court challenge in 2015](#).

In February 2015, the chair of the Indigenous Advisory Council, Warren Mundine, stated that he did not believe reducing levels of indigenous incarceration should become a formal Close the Gap target. Labor promised the new target during the election campaign and the Coalition offered bipartisan support but has since been silent on the issue. Indigenous Affairs Minister Nigel Scullion said the government had not made a final decision.

The Campaign Steering Committee proposes that a target to reduce incarceration rates would encompass mental health and drug and alcohol services and other reinvestment into services that address underlying causes of crime as measures for implementation.

Human Rights and the Intervention –

General compliance – 4/10

In 2007, the Howard Government stated that the Intervention was enacted to address ‘the national emergency confronting the welfare of Aboriginal children’, adding that ‘all action at the national level is designed to ensure the protection of Aboriginal children’. The government argued that the legislative measures were in fact in accordance with Australia’s human rights obligations, in particular to protect children from abuse and exploitation in accordance with the Convention on the Rights of the Child (CRoC).

Despite the government’s insistence that the Intervention was upholding CRoC, the 2007 Intervention legislation was widely regarded as incompatible with international human rights law standards and practices. For example, [The Law Council of Australia](#) argued that the suspension of the RDA in relation to the NTER was ‘utterly unacceptable’. [Amnesty International](#) argued that many of the intervention policies did not protect children or were not related to achieving this goal and chided the policies as ‘paternalism’ by trying to get Indigenous Australians to assimilate and conform to mainstream Australian lifestyle and values.

It was also noted that many of the policies offered, such as anti-violence programs, could have been provided without breaching human rights. In 2009, Amnesty International Secretary General Irene Khan visited communities of the Northern Territory, saying: ‘that Indigenous peoples experience human rights violations on a continent of such privilege is not merely disheartening, it is morally outrageous’.

The Intervention involved measures that contravened several of the most fundamental human rights standards, including the right to self-determination. In order to implement most of measures of the Intervention, the former Howard Government and all successive governments suspended or did not meet the requirements of the Racial Discrimination Act, the legislation that would ordinarily protect racial minorities from policies that negatively discriminate and disadvantage them.

The Stronger Futures legislation has been criticized on many of the same grounds.

In 2012, the Australian Human Rights Commission (AHRC) [identified a number of human rights issues](#) raised by the Stronger Futures legislation. These included the right to equality before the law, the right to freedom from racial discrimination, the [scope of 'special measures'](#) under racial discrimination legislation, the [right to self-determination](#), and the [right to be consulted in decisions](#). It was argued that the intervention measures undermine the rule of law and do not guarantee Aboriginal citizens equal treatment to other Australians. It criticised the limited consultation and the lack of provision for independent review. The government justified the removal of such democratic safeguards as they may 'slow the ability to introduce the (intervention) measures'.

In 2013, the Joint Committee on Human Rights' [11th report](#) examined the compatibility of the *Stronger Futures* legislative package with human rights. The committee argued that the UN Declaration on the Rights of Indigenous People, while not incorporated into domestic law, was part of customary international law and was therefore relevant in considering human rights implications posed by the Stronger Futures legislation. The committee also considered other rights enshrined in treaties such as the International Convention on Economic, Social and Cultural Rights (ICESCR) and the International Convention on Civil and Political Rights (ICCPR).

Special Measures – 3 /10

In the language of international human rights, a special measure is a form of affirmative action which enables particular groups to enjoy human rights and must involve the consent of the affected group of people, be temporary, limited in scope and to the benefit of the people affected, and not to their detriment.

The AHRC [Social Justice Report 2007](#) noted that it was not appropriate to seek to justify discriminatory measures on the basis they are undertaken in furtherance of another right (i.e protection of children from sexual abuse) even if they are 'special measures'. The measures implemented under the intervention cannot be characterised as 'special measures' under international human rights law because they do not positively advance the human rights of Indigenous Australians by creating more favourable conditions or conferring benefits. Instead the Intervention measures restrict the rights of many Indigenous Australians with the explanation of protecting others (i.e children and women).

In relation to international law standards, Amnesty International [reiterated concerns](#) that the suspension of the RDA was not permitted as a 'special measure' and therefore violated Australia's international human rights obligations. Amnesty did [note that](#) the RDA had been re-introduced to the operation in June 2010, however they also noted that discriminatory measures continued despite this.

Measures that violate the human rights of the intended beneficiaries are more likely to operate in ways that undermine the overall well-being of these communities in both the short and long term. In relation to the operation of the Intervention, [the AHRC state that it is clearly established in international law that the principle of non-discrimination on the basis of race cannot be overridden by other considerations](#). CrOC, the international human rights instruments that the government argues it is upholding, is clear that measures to protect children must also be non-discriminatory. The ICCPR states that governments cannot justify restricting certain rights by

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claiming that they are acting in furtherance of another right.

The Parliamentary Joint Committee's [11th Report of 2013](#) was also highly critical of the continued justification of these restrictive policies as 'special measures' under international human rights law. The committee noted that 'there was little detailed analysis of the applicable criteria for a measure to qualify as a 'special measure', and of whether some or all of these measures satisfied the criteria. It noted the scepticism of Professor Anaya, UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people.

The Special Rapporteur wrote:

"As already stressed, special measures in some form are indeed required to address the disadvantages faced by indigenous peoples in Australia and to address the challenges that are particular to indigenous women and children. But it would be quite extraordinary to find consistent with the objectives of the Convention, that special measures may consist of differential treatment that limits or infringes the rights of a disadvantaged group in order to assist the group or certain of its members. Ordinarily, special measures are accomplished through preferential treatment of disadvantaged groups, as suggested by the language of the Convention, and not by the impairment of the enjoyment of their human rights."

It was further argued by the PJC in its 11th Report that the Stronger Futures measures could not apply as 'special measures' because they were not implemented with the consultation and consent of the affected group that the measures under the *Stronger Futures* legislation would affect. The committee recognised the importance of consultation in safeguarding human rights, in particular the right to self-determination (Art 1 International Covenants on Human Rights and Art 3 of UN Declaration on the Rights of Indigenous People). [Measures taken without consultation or consent cannot be said to be for the 'advancement' of a particular group.](#) Arguably, the government has not satisfactorily justified the Stronger Futures legislative package as special measures as defined under international human rights law.

Racial Discrimination – 3 /10

Suspension of the Racial Discrimination Act (RDA)

Indigenous Australians and other individuals in the community expressed concerns that the original NTER measures involved breaches of human rights. In particular, they criticised the incompatibility of the Intervention with the RDA and the broad exemptions of the Intervention from the RDA. As noted by the Australian Human Rights Commission ('AHRC'), a successful claim of discrimination under s 10 of the RDA can only be brought in relation to a statutory provision. By suspending the operation of s 10 of the RDA in relation to the Intervention, the government effectively denied protection to Indigenous Australian communities affected by the legislation.

S 132 of the NTER legislation suspended the Racial Discrimination Act and deemed the aspects of the intervention that targeted indigenous Australians to be 'special measures' in accordance with S 8 of the RDA. These two acts seemed to contradict one another, as special measures exist as part of the RDA in order to implement positive discrimination for a particular race (Article 1(4) of CERD). Intervention measures directly discriminate against Indigenous Australians on the basis of race, and necessitated the suspension of the Racial Discrimination Act. This was done so that the measures would not be classed as discriminatory and could not be challenged. However, concerns were expressed that the various measures of the intervention negatively impacted and discriminated against Indigenous Australians and would not help to improve instances of child sexual abuse for which they were intended.

The Intervention was amended in June 2010 to reinstate the operation of the RDA in relation to Intervention measures. However, restrictions were placed on the use of the RDA to challenge Intervention measures as racially discriminatory. The Intervention legislation denies individuals the right to challenge discriminatory aspects of the Intervention and allow them to seek a legal remedy or redress. Amnesty International noted that despite the positive decision to reinstate the RDA, substantive changes need to follow to redress the discrimination experienced by Indigenous Australians under Intervention policies. This includes ending the policy of requiring Indigenous people to lease land to the government to receive government services, remove power of the Federal Government to compulsorily acquire Aboriginal owned or controlled land, end compulsory income management which continues to discriminate against Indigenous people indirectly and provide compensation for discrimination that people have already been subjected to while the RDA was suspended.

In 2013, the Parliamentary Joint Committee considered whether the Stronger Futures package of legislation was consistent with human rights. It noted that various aspects of the legislation, including its alcohol and income protection measures, involved a differential treatment based on race. It considered that the government had failed to provide justification for its argument that the measures involved were 'special measures'. It had simply asserted that they were without reference to the prevailing interpretation of the notion of special measures in international law.

Right to Self-Determination – 2/10

According to [Indigenous leader Mick Dodson](#):

‘self-determination means recognising Indigenous leadership and supporting Indigenous-led solutions. For governments, it involves abandoning any return to policies of assimilation and paternalism’.

The right to self-determination is recognised in International Human Rights Law. Article 3 and 4 of the UN Declaration on the Rights of Indigenous People (UNDRIP) expressly state that Indigenous people have the right to self-determination including internal, local and financial affairs. The PJC’s 11th Report of 2013 notes that although UNDRIP has not been incorporated into domestic law, [UNDRIP is considered to represent customary international law binding Australia](#) and is therefore relevant in assessing the compliance of Intervention legislation with International Human Rights Law. The International Convention on the Elimination of Racial Discrimination (CERD) has also been interpreted as requiring governments to obtain informed consent from Indigenous communities before interfering with aspects of their public and private life. Effective participation is crucial to the right to development under International Human Rights Law, which means that Indigenous people need to be given the opportunity to have meaningful participation in determining the objectives of their development and how to realise cultural, social and economic goals.

Disempowerment of Indigenous communities

The measures of the Intervention have acted to disempower indigenous communities. Governance has shifted from the responsibility of the community to centralised government agencies. The National Congress of Australia’s First Peoples have stated that

“Unless more emphasis is placed on community control and empowerment, children born in the Northern Territory will spend the formative years of their life under a level of government control that does not exist in other parts of Australia, observing the disempowerment of their communities, their leaders and parents.”

Removing financial autonomy through the Income Management Scheme

As noted above, under Article 4 of the UN Declaration on the Rights of Indigenous People, Indigenous Australians have the right to autonomy and self-government in relation to financial matters. Yet, under the 2007 Intervention, Aboriginal people who received government payments such as Newstart had 50 percent of their income controlled by government. This policy was applied to entire Indigenous communities, regardless of whether they could manage their own income. Indigenous people were simply told that they could not manage their income on the basis of their status as an Indigenous Australian. The income management programs have not been successful in changing behaviours. This combines with the criticism that the measures of the Intervention were a top-down, blanket imposition that were not suited to individual communities and were therefore less effective.

The PJC’s 11th Report of 2013 was also sceptical about the compatibility of the income management scheme (an extension of the restriction to welfare payments introduced in the Intervention) with human rights. The report expressed concerns of the scheme’s incompatibility with the right to be free from discrimination based on race and ethnicity, gender, right to equal
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protection under the law, right to

social security, adequate standards of living and right to privacy. Although the committee accepted the goals pursued by the income management scheme as 'important and legitimate' it considered the scheme and its payment enforcement methods, such as the BasicsCard System a 'significant intrusion into the freedom and autonomy of individuals to organise their private and family lives'. The report noted that despite the income management scheme in the *Stronger Futures* legislative package removing direct references to race and ethnicity that were present in the NTNER, it still disparately impacted on Indigenous Australians in the Northern Territory. The Income Management Scheme is still racially based different treatment within the meaning of Article 2 (1)(a) of CERD.

The 2010 amendment by the Labor Government expanded the income management scheme to 'disengaged youth', 'long-term' or 'vulnerable' welfare recipients, and in circumstances where there is a child protection issue. Although the scheme no longer directly references Indigenous Australians it still has a 'disproportionate effect' on the indigenous population, 94.2% of which is under income management in the NT. Welfare payments are made contingent on children's school attendance and if this was deemed unsatisfactory payments can be cut off. Indigenous Australians are denied the right that other Australians have to an independent review process for decisions made regarding their payments. These measures and limitations were called discriminatory and [contravened principles](#) of the ICCPR (Article 17) and the ICESCR (Article 9).

Removal of customary law in sentencing and bail decisions

Under s 91 NTNER Act (2007) a court was prohibited from considering customary law or practices of Indigenous people in relation to sentencing and bail decisions. These measures substantially continue under the [current Intervention legislation](#), which has introduced amendments to the Crimes Act to prohibit consideration of culture and customary law in sentencing and bail decision. This means that Indigenous Australians in the NT are the [only group in Australia](#) that cannot have their customary laws or culture considered in relation to an offence. This violates sections 9 and 10 of the RDA, which protect the right to equality before the law and prohibit racial discrimination.

[The unintended effect of the removal of considerations of customary law was seen in the application of s 91 in *Aboriginal Areas Protection Authority v S & R Building & Construction Pty Ltd* \[2011\] NTSC 3.](#) This case involved a company which damaged a sacred Indigenous site in the course of carrying out construction works. In sentencing the company, it was conceded that s 91 NTER meant that customary law or cultural practices (i.e the cultural harm caused by the construction company when it degraded the sacred site) was not a relevant sentencing factor.

The unintended application of s 91 was amended by Schedule 4 of the Consequential Amendments Bill which extended ss 15AB and s 16A of the Crimes Act 1914 (Cwlth) to allow the consideration of customary law or cultural background in relation to heritage protection and land rights law.

Nevertheless, there is still restriction on Indigenous customary law as a sentencing factor. [The Law Council of Australia](#) submitted that the judicial restrictions imposed by s 90 and s 91 are discriminatory, unnecessary and cultural background should always be considered a relevant factor

[in determining bail or an appropriate sentence](#). This criticism may still be made of the post-2012 Crimes Act provisions, which still restrict courts from considering customary law in bail and sentencing. The application of these provisions in sentencing and determining bail may also mean that Indigenous Australians receive harsher sentences or are incarcerated for longer periods of time, which only compounds the current problems surrounding the overrepresentation of Indigenous Australians in the prison population.

Right to Social and Cultural Rights – 3 /10

Social and cultural rights are enshrined in ICESCR, to which Australia is a signatory. These include the 'right to enjoyment of the highest attainable standard of physical and mental health', the 'right to education' and the 'right to participate in cultural life'. Similar rights can also be found in the ICCPR Art 27 and CERD Art 5(e).

Property Rights

The right to property is protected under Article 5(d)(v) of CERD which states that everyone has the right to "equality before the law, notably in the enjoyment of the following rights:... (v) the right to own property alone as well as in association with others". The Article 17 of the Universal Declaration of Human Rights also sets out the same right, adding that "no one shall be arbitrarily deprived of his property".

More specifically to Indigenous people, the Declaration on the Rights of Indigenous Peoples states in Art 32(1) that Indigenous people "have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources".

Amendments to the *Aboriginal Land Rights (Northern Territory) Act 1976* and the *Native Title Act 1993* upon the implementation of the Intervention in 2007 meant that the Government could compulsorily acquire Aboriginal land. The fact that Indigenous owners were stripped of control over their property meant that 65 Aboriginal communities were acquired. This allowed the Government to lease the land through 5-year leases without any consultation or guarantee of compensation. The Indigenous owners [lack the rights of lessors](#), with no right to terminate the lease.

A [similar scheme](#) caused Indigenous communities to sign away their property rights for up to 40 years in return for the provision of services and maintenance.

Additionally, [changes to the permit system](#) weakened the control that Indigenous people had over their land. Previously, the landowners had the right to restrict access to their land through a permit system, but under the Intervention, the Government removed this system from all town camps and community living areas. The justification was that the permit system protected sexual abusers by restricting Government access and led to social isolation.

[Section 60 and 134](#) of the NTNER legislation specified that the *Northern Territory (Self Government) Act* that guarantees compensation on 'just terms' for the compulsory acquisition of property does not apply to the Intervention. Section 134(2) states that a "reasonable amount of compensation" must be paid, but there is no indication of what this entails. There is a lack of clarity regarding whether the Commonwealth is required to pay compensation or not.

The [Law Council of Australia](#) has branded these changes as an "unnecessary measure that would not be considered acceptable in any other section of the Australian community."

These measures substantially continue under the Stronger Futures legislation in force since 2012.

Right to Family and Private Life

Article 17 of the ICCPR guarantees that "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home..." The [Joint Committee on Human Rights](#) has identified July 2015

that this right encompasses “freedom from unwarranted and unreasonable intrusions into activities that society recognises as falling within the sphere of individual autonomy”.

The imposition of income management on Indigenous communities through the BasicsCard restricted the ways in which that money could be spent. Therefore, the scheme is both a restriction on the right to social security and a violation of the right to family and private life. The conditions imposed on the payments constitute an ‘arbitrary interference’ to the extent that it also affects family members who may have nothing to do with school attendance. This restriction is especially arbitrary since [no evidence](#) has been shown regarding the effectiveness of linking school attendance requirements to welfare payments.

The denial of payments may also constitute a violation of the right to an adequate standard of living under Art 11 of ICESCR

The Healthy Welfare card set to be trialed this year resembles the BasicsCard in that it also restricts how people can use their money. The *Social Security Amendment (Debit Card) Bill 2015 Cth* authorises the trialing of the Healthy Welfare card. Its provisions raise some similar concerns to those raised by the BasicsCard. One concern is the impact the system has on the right to privacy. [In his report](#), the Aboriginal and Torres Strait Islander Social Justice Commissioner highlighted the somewhat broad authority conferred by the Debit Card Bill to disclose information about the trial’s participants to the Secretary. These disclosure provisions may breach the [right to privacy in article 17 of the ICCPR](#).

Right to be consulted – 3 /10

The United Nations Declaration on the Rights of Indigenous People declares in Article 19 that;

“States shall consult and cooperate in good faith with the Indigenous peoples concerned 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.”

Despite this Declaration being aspirational and non-binding, it has been adopted by Australia which obliges the Government to act in accordance with the object and purpose of the Declaration.

The Committee on the Elimination of Racial Discrimination (General Recommendation 12) has also commented that governments should ensure that “no decisions directly relating to their rights and interests are taken without their informed consent.” The lack of consultation also affects Australia’s obligations under the ICCPR and ICESCR regarding the right to self-determination (discussed above). Additionally, the measures taken under the Intervention could only be legitimately considered ‘special measures’ under CERD if proper consultation was carried out.

“The [NTNER has been criticised](#) for its lack of engagement with the communities that it most affected”. Every stage of the Intervention since its inception in 2007 has had issues surrounding the level of consultation that was undertaken. This is despite the recommendations in the Little Children are Sacred Report, which prompted the whole response that “it is critical that both governments commit to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities”.

The rushed nature of the initial legislation did not allow time for proper consultation to occur. Any [Indigenous programs and services](#) that were already being offered at the community level were totally disregarded by the sweeping changes that were brought in. The changes made under the 2012 Stronger Futures legislation were discussed with Indigenous communities during a [six-week consultation period](#), however the government conducted [consultations](#) on decisions that had already been made. Furthermore, these processes failed to engage communities on the issues most relevant to them, such as income management.

All stages of the Intervention have adopted a top-down, one-size-fits-all approach that has failed to properly consult with Indigenous communities.

The [Australian Human Rights Commission’s](#) observations regarding the right to be consulted concluded that the lengthy time-frames for some of the measures make it especially critical that consultation is carried out.

The ‘Listening but not Hearing’ Report, carried out by the Jumbunna Indigenous House of Learning Research Unit, outlined the requirements under the duty to consult. Criteria include prior consultation of Indigenous peoples rather than discussions based on pre-determined conclusions as well as active participation of affected communities and free, prior and informed consent.

The Report found that the Stronger Futures consultation process excluded Indigenous people from the design process, failed to provide information on specific measures and did not provide any mechanisms for reaching a mutually agreeable settlement.

The Parliamentary Joint Committee’s 11th Report of 2013 also criticized the Stronger Futures package of legislation for its failure to include a requirement of consultation. The duty to consult is part of international law and a requirement for any ‘special measures’ to be valid. Thus, regimes such as the July 2015

Healthy Welfare card should only be implemented with the consent of and in consultation with the affected community or individual.

Right to Social Security – 4/10

The right to social security is protected under Article 9 of the ICCPR, to which Australia is a signatory. This right has been interpreted as obliging governments to “guarantee that the right... is enjoyed without discrimination, and equally between men and women” in accordance with Articles 2 and 3 of the Convention. It is also required that the benefit is “[not provided in a form that is onerous or undignified](#)”.

Income Management

The practice of quarantining a percentage of welfare payments through the Intervention’s income management scheme was applied as a blanket rule. No case-by-case consideration was given for Indigenous people living in ‘prescribed communities’, regardless of how they were managing their payments prior to the Intervention. Despite some changes in 2010 to better target the scheme, it still disproportionately affected Indigenous people, who comprised over 90% of people in the scheme. The Government has stated that the scheme does not affect eligibility or payment amount, but only places conditions on the payment. However, the [Joint Committee on Human Rights](#) considers the conditions “sufficient to constitute a limitation on the enjoyment of the right to social security.”

A blanket approach also breaches the non-discrimination provisions found in various international human rights treaties. This is because it is a policy that has been applied to whole areas, where the population is overwhelmingly Indigenous.

There is also [no evidence](#) that making the payment of welfare conditional on school attendance is effective at increasing attendance rates. Rather, it breaches the right to social security and potentially deprives families of much needed financial support, especially if there are underlying factors as to why the child is not attending school.

Restricted Access to Independent Review

Amendments to the *Social Security (Administration) Act 1999* (Cth) have prevented those on the income management scheme from appealing to the [Social Security Appeals Tribunal](#). This means that they have no access to independent review. The [Government’s justification](#) was that review would “take too long” and would “undermine the timing of the emergency response”.

Abolition of CDEP

The [abolition of the Community Development Employment Program](#) and the resulting lack of jobs in remote indigenous communities also contributed to violations of this right to social security. Indigenous people were forced to shift from employment that allowed a level of financial independence, to move onto welfare payments with compulsory quarantining.

Rights of Children – 4/10

The Intervention was initially justified on the basis that Australia was fulfilling its obligations under CRoC by preventing sexual abuse of Indigenous children. The Intervention was instigated to tackle the disproportionately high levels of child sexual abuse in the NT, but the shift away from this focus has been the source of most criticisms.

The focus of the Intervention has, according to reports from the Children's Commissioner of the NT, shifted away from the protection of children from sexual abuse to focusing on economic and infrastructure development. Intervention policies such as increased funding to safe houses and child protection workers were designed to combat situational causes of Indigenous child abuse and maltreatment. However, [intervention policies which ostensibly have the aim of improving Indigenous children's lives did not address underlying and structural causes of Indigenous child maltreatment and abuse](#). This is not consistent with Art 19 (2) of CRoC which requires preventative strategies to be employed to ensure a child's right to protection.

Protection of Children no longer the paramount objective of the Intervention

The Intervention legislative package and policies do not adequately address the needs of Indigenous children. The explanatory memorandum for the initial Bill stated that the measures would '[protect children and implement Australia's obligations under human rights treaties](#)'. Despite this, the NTER [ignored all but 3](#) of 97 recommendations for addressing child sexual abuse that were given in the Little Children are Sacred report. The initial legislation did not once mention child sexual abuse or the words child or children. The Intervention instead focused on periphery measures such as land leases, alcohol restrictions and welfare reform. Author of the *Little Children are Sacred* report Patricia Anderson has been outspoken against the Intervention since its inception, claiming now that it has [worsened the disadvantage](#) of Indigenous Australians in the NT, though Anderson has supported the prohibitive measures for alcohol and pornography. A Children's Commissioner Report in 2012, 5 years into the Intervention, highlighted that progress of the protection of children was being measured by self-reports from government bodies rather than independent analysis or sources.

The Intervention has diminished the rights of the child and of the family, by not considering the rights of the family and/or caregivers are linked inextricably to the rights of children. The Intervention measures are aimed at punishing those who commit offences relating to child abuse of against the protection of children, rather than addressing the underlying cause of the abuse. These could be better addressed by implementing educational and community support programs. Programs do not address the root of many of the problems of abuse within indigenous communities, which is the intergenerational trauma experienced by those who have lived through the Stolen Generations . The mandatory forensic health checks of Indigenous children were called invasive,

ineffective, expensive and 'possibly unlawful'. The checks 'did not meet best practice or World Health Organisation guidelines' and had little effect on the children they were intended to help.

SEAM and the impact on Indigenous Children

The School Enrolment and Attendance through Welfare Reform Measures ('SEAM') was introduced in 2008 with the aim of increasing school attendance rates and has substantially affected Indigenous children and families. There are competing International Human Rights obligations in relation to children which have been used by government and opponents of SEAM to justify its existence or dismantling. The government argues that SEAM fulfils the state's obligation to take measures to encourage regular attendance at schools and reduce dropout rates. The specific rights identified by the government in implementing SEAM are Article 28 (1) (e) of CRoC and Article 13 of ICESCR. However, the AHRC notes that the measures must be appropriate and not unduly diminish *other* rights such as the right of a child to benefit from social security under Article 26 of CRoC.

Controversially, SEAM links welfare payments with children's school attendance. Making welfare payments dependent on children's school attendance infringes on the right to social security under Article 9 and 10 of ICESCR and the obligation of the state to act in the best interest of the child under CRoC. The decision to make welfare payments contingent on school attendance may violate a child's right to development as it can leave children and families without essential items such as food and clothing. Denying Indigenous families and children access to essential services and household items can further entrench problems of poverty, ill health and overcrowded housing in the family, which research shows are factors that contribute to school absence. The National Congress of Australia's First People also noted that SEAM places the burden on children in relation to their family's receipt of income support and financial well-being. If welfare is withdrawn on the basis of a child's non-attendance this may cause the child to be further victimised by family member.

The AHRC also noted that according to the NTER Evaluation Report, [there has been no observable improvement in school attendance](#) generally between 2006 and 2010, and there has been a decline since 2010. This would suggest that the program is not fulfilling the Australian government's obligation under ICESCR to take appropriate measures to reduce dropout rates and encourage school attendance. This is because a punitive approach to increasing school attendance is ineffective. [There are more appropriate and constructive measures that could be taken to fulfil international human rights obligations.](#) These include improving the cultural appropriateness of schools to increase involvement of Aboriginal teachers, parents and community members, supporting culture in schools to address bullying and harassment of Indigenous students, incentivizing students through motivational techniques and sport and ensuring there are high quality teachers who create an engaging learning environment. [A SEAM Evaluation Report by the research branch of the Department of Education, Employment and Workplace Relations highlighted the complex nature of increasing Indigenous school attendance](#) and found that non-attendance is affected by 'many factors and barriers...some of these were cultural obligations and issues, clan conflict and violence, transport issues, health problems and schooling languages. Tailored case management is considered to be the most critical factor in addressing issues behind school absenteeism'. SEAM does not adequately address these underlying and complex factors in its policy approach to reducing school non-attendance by Indigenous children.

In 2014, closing the gap between school attendance rates for Indigenous and non-Indigenous students was [labeled as a new target](#) to be reached within 5 years. [The report states](#) that the gap between performance in school of Indigenous and non-Indigenous students is driven largely by non-attendance. This was found to be especially true of the more disadvantaged students, as performance dropped rapidly as attendance decreased.

The COAG Reform Council concluded that between 2008 and 2012 no improvement had been made in attendance numbers for Aboriginal and Torres Strait Islander students. It should be noted however, that [issues exist relating to collecting, comparing and collating the data](#) to create a national understanding, as different states and territories have their own way of recording student absenteeism. This can lead to misleading data. This should be taken into account when considering the [data COAG releases twice a year](#) in an aim to increase transparency around school attendance.

Genocide

Genocide is defined in Art 6 of the Rome Statute of the International Criminal Court, particularly the intention to destroy a racial group by “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”.

The Bringing Them Home Report of 1997 likened the removal of children during the Stolen Generations to genocide, stating that the entire community loses “its chance to perpetuate itself in that child”. Then Prime Minister John Howard [rejected these claims](#).

Regarding the current Intervention in the Northern Territory, concerns were first reported by the [ABC](#) while the 2007 NTNER legislation was still in draft form that the denial of Aboriginal culture was “in some ways genocide”. The main basis for genocide claim is the [high levels](#) of Indigenous children that are being removed from their homes and placed into care due to child protection programs.

Some have likened this policy of removal to a “[new stolen generation](#)”. Damien Short’s article ‘[Australia: a continuing genocide?](#)’ contended that current government policies regarding Indigenous people constitute a “sinister attack on indigenous land rights, autonomy and cultural integrity that has led some indigenous peoples to describe their present day lived experiences as tantamount to genocide.”