



Secretariat of National Aboriginal and Islander Child Care

Inquiry into the Stronger Futures in the Northern Territory Bill

**SNAICC Submission to the Senate Community Affairs Legislation
Committee**

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1. Introduction

The Secretariat of National Aboriginal and Islander Child Care (**'SNAICC'**) welcomes the opportunity to provide a submission to the Senate Community Affairs Legislation Committee on the Australian Government Stronger Futures in the Northern Territory legislative package introduced to Parliament on 23 November 2011. This includes the Northern Territory Bill 2011, the Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011 and the Social Security Legislation Amendment Bill 2011 (**'Stronger Futures Package'**).

SNAICC was established as a non-governmental, not-for-profit organisation in 1981. It is the national peak body in Australia representing the interests of Aboriginal and Torres Strait Islander children and families.¹ SNAICC has been a persistent voice and advocate in support of the protection, wellbeing and development of Aboriginal and Torres Strait Islander children and families, conducting research, providing policy advice and developing resources on issues around child protection and child development for well over two decades. The full realisation of all human rights of Aboriginal and Torres Strait Islander children lies at the core of SNAICC's mandate. With a membership of Aboriginal and Torres Strait Islander community controlled children and family support services across Australia, SNAICC is well placed to both understand the complex issues impacting our children and families, and to propose targeted responses.

SNAICC supports the Australian and Northern Territory Governments' persistent efforts to redress entrenched and complex challenges in the Northern Territory, which result in rampant poverty and exclusion, traumatised and dysfunctional families, and grave concerns for children and family protection, well being and development. However, SNAICC is highly concerned that the Government has again failed to engage in real partnership with Aboriginal and Torres Strait Islander Elders, other leaders, services and communities in the development of the Stronger Futures Package.

SNAICC also believes that while the Government has endeavoured to respond to a number of core concerns with the Northern Territory Emergency Response (**'NTER'**), the fundamental flaws in the approach adopted remain largely unchanged. The proposed approach is fundamentally at odds with the real participation, leadership and empowerment of those people who will be impacted by the legislation. Further, it is silent on the critical enabling factors, such as the integrated children and family support services, which must be the foundation of efforts to rebuild the fabric of the communities that the legislation will impact.

For the purposes of this submission, SNAICC simply seeks to draw the Committee's attention back to the core issues that drove the NTER and are driving its proposed replacement, the Stronger Futures Package. The proposed Bills do not provide a concerted response to prevalent child and family protection issues, redress the causes of underlying problems of alcoholism, violence and trauma, or pave the way for enabled, flourishing, diverse communities. SNAICC seeks to reinforce the core principles - that evidence demonstrates and that Australia's human rights obligations require - are fundamental to any response to the serious issues for the protection, development and well being of Aboriginal and Torres Strait Islander children and communities in the Northern Territory.

¹ Further information on SNAICC is available online at www.snaicc.asn.au.

SNAICC remains hopeful of working with the Australian Government to develop long term, sustainable solutions to the human rights violations persisting in the Northern Territory. SNAICC is adamant that solutions imposed on communities that continue to undermine their autonomy and strengths, and are in breach of their fundamental human rights, will not succeed. These are important issues: the wellbeing of Aboriginal children and thriving communities is a matter of critical concern to us all. Involve Aboriginal and Torres Strait Islander Elders, leaders and communities in real partnership to develop and implement solutions together: there, change will come.

SNAICC implores the Committee to reject the Stronger Futures Package and recommend that it be redeveloped in accordance with fundamental international human rights laws to which Australia is bound, which reflect values to which we are all committed, and evidence of effective strategies to resolve deep seated issues within impoverished and excluded communities.

2. Children are Sacred

The NTER was designed to redress the serious and complex issues around child abuse in the Northern Territory that were documented in the Children are Sacred Report in 2007.² The initial and amended response of the NTER, as well as the newly proposed Stronger Futures Package however, are a far cry from the holistic, integrated response proposed in the Report.

SNAICC has made a series of submissions which articulate SNAICC's position on the appropriate and required response to redress child protection issues, in the Northern Territory and more broadly, which are available on the SNAICC website.³ Essentially, SNAICC's position is consistent with that reinforced repeatedly in the Little Children are Sacred Report:

What is required is a determined, coordinated effort to break the cycle and provide the necessary strength, power and appropriate support and services to local communities, so they can lead themselves out of the malaise: in a word, empowerment!⁴

The international evidence illustrates that the development of Indigenous community based systems for the prevention of and intervention against child abuse and neglect, provide the most sustainable and effective outcomes (see overview in Appendix A). In particular, there is a strong movement overseas to replace centralised Western models of child protection through the empowerment of Indigenous communities to develop effective local programs, services and strategies. Australia is well behind the efforts of Aboriginal communities and state authorities in Canada, the United States and New Zealand in this regard.

² *Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse*, Northern Territory Government, 2007.

³ SNAICC submission, Northern Territory, NT Board of Inquiry into the sexual abuse of Aboriginal children, March 2007; Northern Territory Emergency Response (NTER) Review Board - Submission August 2008; *Development of a National Action Plan for Aboriginal and Torres Strait Islander communities to prevent and respond to child abuse and neglect: briefing for State and Territory Governments*. SNAICC, Secretariat of National Aboriginal and Islander Child Care Inc. Melbourne. 2006.

⁴ P.13.

The key components that international evidence indicates are required to underpin a successful response to child abuse and neglect within Indigenous communities include:

- (a) Self-determination;
- (b) Support and promotion of family and community level decision making;
- (c) Independent monitoring of child protection and out-of-home care standards;
- (d) Holistic service responses focused at the family and community level - not the individual child level;
- (e) Strengths based approaches which build on and extend family capacity and responsibility for children's well being, and which are empowering; and
- (f) Healing programs based on local Indigenous cultural practices.⁵

Interventions that enhance family responsibility and capacity to care for their children are more sustainable. Parents and families need to be supported, empowered and held accountable for the welfare of their children. However family accountability for the well being of children is a subset of community accountability for the well being of families and government accountability for the well being of communities. All are intrinsically linked.

These principles drawn from international evidence reflect those principles detailed in section 3 below and, SNAICC argues, should form the basis of any framework for analysis of the appropriateness and effectiveness of the Stronger Futures Package.

SNAICC considers that such a comparison can only lead to the conclusion that that Stronger Futures Package is misplaced. While SNAICC commends the efforts to redress the structural issues behind child protection concerns, including housing, education, excessive alcohol, and food sustainability, the driving operandi of the proposed strategy undermines rather than builds the foundations for prosperous and strong communities. It fails to address the generational trauma of colonisation, forced removal of children, poverty, discrimination and exclusion. It imposes responsibility without ensuring necessary support services to enable people to make responsible choices, and without attending to any of the causes for which the mainstream system is and remains responsible.

The Stronger Futures Package is silent on resources and support for strong and coordinated support services for children, families and communities, which must form the bedrock of any effective response. The future of NTER support programmes like the Family Support Package for example, which aimed to provide 22 Safe Places in identified communities, Mobile Child Protection Teams, and Remote Aboriginal Community and Family Workers in 13 remote communities, remain unclear. A coordinated, integrated suite of support services, which are equipped and enabled to fulfill their objectives, is required to regenerate and rebuild wounded communities. Provision must not only be made for punitive measures where the prerequisite conditions for fulfillment are not present. In this regard, targeted programs on the provision of housing in Aboriginal and Torres Strait Islander communities must also be reprioritised, and properly resourced, planned and implemented. Once again, entrusting local leadership to develop and implement housing programs is fundamental to making real inroads on this critical issue.

The Stronger Futures Package does not engage a strengths based approach, which will support people to heal, and build community capacity and leadership to enable communities to redefine themselves on the basis of their values, beliefs and aspirations.

⁵ Libesman, T and Bell, T. *Aboriginal and Torres Strait Islander Child Protection Outcomes Report – International Literature Review*. SNAICC, Secretariat of National Aboriginal and Islander Child Care Inc. 2005 (forthcoming publication).

3. Principles to guide a response to child and family protection and development concerns in the Northern Territory

SNAICC urges the Committee to assess the Stronger Futures Package on the basis of core principles that are consistent with Australia's human rights obligations, and that evidence demonstrates are necessary to effectively respond to child welfare concerns for Indigenous children in impoverished communities.

(a) Principles

Legislation that redresses endemic concerns about impoverished Aboriginal and Torres Strait Islander communities in the Northern Territory must not only be consistent with, but must also advance core human rights which are articulated specifically in relation to Indigenous peoples in the *United Nations Declaration on the Rights of Indigenous Peoples (2007)* (*'Declaration'*), endorsed by Australia in 2009.

SNAICC notes here the significant concerns about Australia's breach of international human rights laws through the NTER, which remain largely unchanged in the Stronger Futures Package, are well documented by experts in this field.⁶

The United Nations Declaration on the Rights of Indigenous Peoples (2007) is an important guiding tool for analysis. It encapsulates a **human rights based approach**, which provides a comprehensive way in which to ensure that the norms, principles, standards, and goals of human rights are incorporated into the plans and processes of development. As a broader approach however, it also recognises the unequal power relationships which contribute to poverty and exclusion. It redresses the causes underlying these issues, rather than the symptoms, and supports empowering strategies that build on community strengths. This contributes to sustainable change in the underlying issues, enabling people to rebuild their sense of dignity and respect, learn new parenting and other skills, and become empowered to make choices about their child's upbringing. It actively requires community participation – "encouraging and facilitating communities 'doing it for themselves' rather than 'being done to'."⁷

Human rights of particular importance in relation to the Stronger Futures Package are:

- **The right to self-determination**, which recognises Aboriginal and Torres Strait Islander peoples right to a choice in determining how their lives are governed and to their development paths, to participate in decisions that affect their lives and to have control over their lives and future including their economic, social and cultural development.⁸ The Expert Mechanism on the Rights of Indigenous Peoples recently reinforced that "*The*

⁶ See Human Rights Law Centre submission to the Senate Committee's Inquiry into the Reinstatement of Racial Discrimination Act Bills, February 2010, available at <http://www.hrlc.org.au/content/topics/equality/indigenous-rights-proposed-amendments-to-the-northern-territory-intervention/>.

⁷ *Pipirri Wiimaku 'for the little kids' innovative child care report*, Waltja Tjutanku Palyapayi Aboriginal Corporation, Alice Springs, NT, 2001 cited by Hutchins et al, "Indigenous Early Learning and Care", Australian Research Alliance for Children and Youth (ARACY), 2007, p22.

⁸ UNDRIP, article 3; The right to self-determination is recognised in Article 3 of the *United Nations Declaration on the Rights of Indigenous Peoples (2007)*, which reflects international law to which Australia is bound, as set out in the core international conventions, *the International Covenant on Civil and Political Rights (1966)* (Article 1(1)) and *the International Covenant on Economic, Social and Cultural Rights (1966)* (Article 1(1)).

right to full and effective participation in external decision-making is of fundamental importance to indigenous peoples' enjoyment of other human rights."⁹

The wealth of evidence across different sectors on the importance of self-determination for positive outcomes is abundant. In SNAICC's work on early childhood services for example, it is clear that governance strategies that foster Aboriginal and Torres Strait Islander leadership and ownership of services, in effect community control, lead to better outcomes for service delivery.¹⁰ As Hutchins et al note:

Indigenous communities all around Australia have very high expectations regarding their involvement and ownership of services and programs provided to improve and support their wellbeing. This relates to all levels of decision-making, policy development, processes and practices. Without this involvement there is no guarantee of participation.¹¹

Investing people with the responsibility to develop, design and implement programs to respond to their identified priorities, aided with the necessary support, produces results.

- **The right to participate in decisions impacting our communities**, which is entrenched in international human rights law, and encapsulated well by Article 19 of the Declaration: "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."

This is reinforced in relation to issues of development in Article 23 of the Declaration, which reads that:

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

It is basic understanding in development practice worldwide that community driven and led processes show results; that participation is a driving force behind empowerment; and that empowerment is a prerequisite for sustainable change in the experience of poverty. Participation in the design, development and delivery of the program is also fundamental to the sustainability of the program. A Stronger Futures Package that

⁹ Final Report of the study of indigenous peoples and the right to participate in decision-making, Report of the Expert Mechanism on the Rights of Indigenous Peoples, 17 August 2011, A/HRC/18/42, available at http://www.google.com.au/url?sa=t&rct=j&q=a%2Fhrc%2F18%2F42&source=web&cd=1&ved=0CB4QFjAA&url=http%3A%2F%2Fwww2.ohchr.org%2Fenglish%2Fbodies%2Fhrcouncil%2Fdocs%2F18session%2FA-HRC-18-42_en.pdf&ei=WYbqTu2jOoGtiQePzPWJBw&usg=AFQjCNE0XmIjTieJSwwNeuRJxi74qvTlw&sig2=BFLj563lk-6Fa0HodcQF0w&cad=rja.p.25.

¹⁰ See Flaxman et al, 'Indigenous families and children: coordination and provision of services', Occasional Paper No 23, *National Evaluation Consortium*, 2009, p34; SNAICC, *Indigenous Parenting Project: Main report*, 2004, p44; SNAICC, 'Increasing Aboriginal and Torres Strait Islander access and engagement with child and family services', Policy Paper, 2011, pgs 1 and 3; and Sims et al. (2008). "Indigenous child carers leading the way". *Australian Journal of Early Childhood*, 33 (1), 4.

¹¹ Hutchins et al, "Indigenous Early Learning and Care", Australian Research Alliance for Children and Youth (ARACY), 2007, pgs 25-26.

supports and enables people to develop and implement solutions, which they then own, will ensure that the impact of the program far beyond its period of operation.

- **The right to not be discriminated against, directly or indirectly**, which Article 15(2) of the Declaration summarises as requiring the Government to: “take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.”
- **The right to develop and maintain cultural institutions, norms and practices consistent with human rights standards**, explained by Article 34 as: “the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.” Aboriginal and Torres Strait Islander children and peoples must be enabled to develop solutions to issues in a manner that reflects and supports culture and identity.
- **The right to education**: articulated in Article 14 of the Declaration as follows:
 1. “Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
 2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
 3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.”

(b) Reflection on the Stronger Futures Package

The Stronger Futures Package proposes to build on the highly controversial programs instituted through the NTER, for which there remains no real evidence base and which undermine significant human rights of Aboriginal and Torres Strait Islander peoples in the designated areas of the Northern Territory impacted by the NTER and the proposed Bills.

Reflection on the Australian Government initiative contained in the Stronger Futures Package to improve School Enrolment and Attendance through Welfare Reform Measure (**'SEAM'**) is illuminating, the conclusions for which can be expanded across the other major components of the Stronger Futures Package. SEAM aims to improve school enrolment and attendance through a Government imposed, non-voluntary program that suspends income support payments to parents not ensuring their children are attending school.

Authors of the SEAM Evaluation Report 2010, released in January 2012, conclude that: “results are tempered somewhat by evidence suggesting that a relapse after the compliance period is common, with an associated increase in unauthorised absences.”¹² This highlights that while penalties may force people to comply with measures on a short term basis, there is a tendency to backfire in the long term with poorer compliance and even less buy-in. This

¹² Social Policy Research and Evaluation Section Research Branch, Department of Education, Employment and Workplace Relations (2012), *SEAM Evaluation Report 2010*, Australian Government, January 2012, p.iv.

understanding has been reinforced by international evidence, which suggests an approach based on social inclusion, which is consistent with the human rights-based approach, most effective to improving attendance rates and supporting good education outcomes for vulnerable children.¹³

Communities that will be impacted by the measure have not participated in its development or design; they have not been entrusted to develop measures to respond to the poor school attendance; and they have not given any informed consent for the roll out and now expansion of this program. It is a measure which has been imposed, with the message that parents must be punished by the Government in order to motivate them to ensure their child participates in the school.

The proposed Bills are silent on well-documented evidence of many reasons which underlie poor school enrolment and attendance. These include: experience of discrimination within the school; irrelevance of curriculum; lack of cultural competence of staff and teachers; lack of cultural safety of school environment and classes; language difficulties; adoption of learning methodologies which are not consistent with learning methodologies of Aboriginal and Torres Strait Islander children; transport and accessibility issues; and fear of past experiences with state institutions.¹⁴ The Stronger Futures Package is silent on all of these issues.

There are also real issues about the extent to which the Australian Government is fulfilling the right to education for Aboriginal and Torres Strait Islander children. Not only do Indigenous peoples not have say over the type of education system, the language in which schooling is taught, the manner in which teaching and learning takes place, or the quality and relevance of the content of curriculum, but they have their right to social security removed if they do not force their children into this system. Further, SEAM indirectly discriminates against Aboriginal and Torres Strait Islander peoples, as the measure is deliberately applied to communities that are predominantly inhabited by Aboriginal and Torres Strait Islander peoples.

SNAICC supports encouragement of family and community responsibility for the education of children. Any proposal however must respect and support their fundamental human rights and engage them in solutions which are relevant and appropriate for Aboriginal and Torres Strait Islander children and families. The recommendations from the Children are Sacred Report, attached as Annexure B, provide a response which is more holistic, and which seeks to redress the causes behind poor school attendance, so as to ensure better-educated children.

The recommendations from the Little Children are Sacred Report recognise, for example, the support and the preparation that are required for strong school attendance and ultimately well educated youth. In this regard, Shepherd and Walker observe that "It can be incredibly difficult for Indigenous children and parents to make the connections between homes and school given the conflict between the demands and expectations of mainstream education with their language, cultural and social skills and experiences."¹⁵ One of the tenets

¹³ Cowling, Uniting Care (2009) *Suspending welfare payments to promote school attendance: Strange logic, unlikely outcomes and a better way*, Paper presented to the ACOSS National Conference, 2-3 April 2009.

¹⁴ See, for example, the *Little Children are Sacred Report*, pp.147-154.

¹⁵ Shepherd, C., & Walker, R. (2008). "Engaging Indigenous Families in Preparing Children for School", Australian Research Alliance for Children and Youth (ARACY), 20.

therefore, of Aboriginal and Torres Strait Islander early education and care services, is to provide that crucial link between home and school, preparing children for mainstream school and ensuring a strong identity to build confidence from, and thus supporting children to achieve better outcomes in their further education and development. As other authors note: "Indigenous children need services that support a strong cultural identity to enable them to move into the schooling system and experience success."¹⁶

This is one of the components in a more holistic response that is required to improve education outcomes (not just school attendance) for Aboriginal and Torres Strait Islander children. SNAICC argues that these issues reinforce the narrow focus of SEAM, and the other initiatives proposed in the Stronger Futures Package, which cannot achieve the goals and objectives of the proposed Bills. Various evidence-based proposals have been put forward as alternative proposals that build on social inclusion and human rights.¹⁷

SNAICC calls on the Committee to recommend that the Government reconsider the Stronger Futures Package on the basis of such social inclusion and human rights based approaches.

(c) Examples of empowering ways ahead

There are innovative programs that exist in all of the areas redressed by the Stronger Futures Package which support and strengthen communities, and their ability to provide appropriate solutions in partnership with Government and mainstream services. SNAICC recommends that the proposed Bills be reconsidered on the basis of human rights principles demonstrated in practice through learnings from innovative programs. SNAICC shares one example by way of illustration.

A process is underway in NSW, supported by the NSW Department of Families and Communities (**'FaCS'**), to transfer Out-of Home-Care (**'OOHC'**) service provision to the NGO sector. One aim of this project is that 'all Aboriginal children and young people in OOHC will be cared for by Aboriginal carers, and supported by Aboriginal caseworkers employed by local Aboriginal managed agencies.'¹⁸ The plan recognises that to achieve this goal, capacity of Aboriginal community controlled organisations (**'ACCos'**) in the sector will have to increase about eightfold and, in addition to the 3-4 initial capacity building sites, a further 7 new Aboriginal agencies need to be developed.¹⁹

A partnership-based capacity building model has been developed between the Aboriginal Child, Family and Community Care Secretariat, NSW (**'AbSec'**) and the Association of Children's Welfare Agencies (**'ACWA'**) in which new Aboriginal OOHC agencies will be developed through partnerships between existing large and effective non-Aboriginal OOHC providers and Aboriginal communities. The project proposes auspicing arrangements

¹⁶ Sims et al. (2008). "Indigenous child carers leading the way". *Australian Journal of Early Childhood*, 33 (1), 3; see also Bond, D. (2000) *Multifunctional Aboriginal Children's Services National Report*. SNAICC, 14.

¹⁷ See, for example, Cowling, Uniting Care (2009). *Suspending welfare payments to promote school attendance: Strange logic, unlikely outcomes and a better way*, Paper presented to the ACOSS National Conference, 2-3 April 2009.

¹⁸ The Ministerial Advisory Group on Transition of Out-of-Home Care (OOHC) Service Provision in NSW to the Non-Government Sector. (2011). *OOHC Transition Plan: Stage 1 – The 'Who' and the 'When'*, Sydney: NSW Department of Family and Community Services. Retrieved on 10 January, 2012 from <http://www.absec.org.au/data/files/6b/00/00/00/OOHC%20Transition%20Plan%20Stage%201.doc>

¹⁹ Ibid.

through which mainstream service providers will support the growth, development and accreditation of new Aboriginal agencies that will transition to autonomous governance within an agreed timeframe.

Aspects of the approach that demonstrate respect for fundamental human rights principles and show promise for building respectful and effective partnerships between Government, mainstream organisations and Aboriginal community controlled organisations and community include the following:

- AbSec as both an Aboriginal controlled organisation and the peak body for Aboriginal OOHC providers in NSW is taking a leading role and ensuring the approach reflects both good practice in service provision for Aboriginal children and families and the aspirations of Aboriginal peoples.
- There is a funded role for brokering partnerships and facilitating initial partnership development that sits with the AbSec Capacity Building Manager. This role enhances the negotiating position of Aboriginal communities and new Aboriginal service providers.
- Agreements are being established from the start which clearly identify partnership goals and include a commitment from mainstream organisations to a supported transition to autonomous governance for the new Aboriginal agency. A clear process is in place for the transfer of ownership of OOHC services to the Aboriginal community.
- The focus on capacity building seeks to ensure that the transfer of services is not simply a transfer of responsibility, but rather supports new ways of work that are achievable: they are effective, culturally appropriate and adequately resourced.
- The capacity building approach is being tailored to the needs of local communities, taking account of needs, existing service provision and the challenges in rural and remote locations.
- The project is being implemented by AbSec and ACWA in partnership, with significant support from FaCS.

The approach seeks to ensure that relationships are underpinned by principles of effective and respectful partnership with Aboriginal organisations.²⁰

This partnership based approach reflects a commitment to self-determination for Aboriginal and Torres Strait Islander peoples, recognising that Aboriginal peoples have the right and are in the best position to determine the appropriate services for Aboriginal children. It respects the knowledge, skills and experience that Aboriginal and Torres Strait Islander peoples have that places them in the best position to lead a process targeted at supporting Aboriginal and Torres Strait Islander children in OOHC.

There are many other example that could be drawn on to achieve the aims of the Stronger Futures Package. Another example concerns the thirteen Aboriginal Independent Community Schools in Western Australia that aim to improve and retain higher school attendance rates by facilitating agreements between the community and the school.²¹ These agreements highlight school attendance as a key outcome, and propose strategies to combat absenteeism. Responsibility for children attending school is divided between both the school

²⁰ See SNAICC (2012). *Opening Doors Through Partnerships, Practical approaches to developing genuine partnerships that address Aboriginal and Torres Strait Islander community needs.*

²¹ See <http://aics.wa.edu.au/>, accessed on 03/02/2012

and all community members, and is implemented through strategies such as prizes for children and families for high attendance, community committees to liaise with children, families and teachers,²² and school start times that are flexible to weather conditions.²³ These community designed initiatives place responsibility for school attendance on families and the community as a whole, and therefore empower families in tackling the challenge of school attendance and absenteeism.

4. Conclusions

SNAICC appreciates the efforts of the Australian Government in reflecting on the experience with the NTER in its preparation of the Stronger Futures Package. However SNAICC argues that the Government approach remains at odds with good practice evidence of what works for children, families and communities, and with driving principles of human rights. The Stronger Futures Package punishes families without providing the foundation for compliance. Reflection of the recommendations on education from the Little Children are Sacred Report (extracted in Appendix B) in comparison to the approach adopted in the Stronger Futures Package illustrates this, as does the silence of the Stronger Futures Package on resources and support for strong and coordinated support services for children, families and communities.

SNAICC urges the Committee to recommend that the Government adopt a longer-term, strengths-based approach to redress concerns for the development and well being of Aboriginal and Torres Strait Islander children and families in communities in the Northern Territory, and beyond, which respects the fabric of the relationship of trust and equality with Aboriginal and Torres Strait Islander Peoples. A package is required that respects the capacity and right of Aboriginal and Torres Strait Islander peoples to develop and drive processes impacting Aboriginal and Torres Strait Islander children and families, and respect for Aboriginal and Torres Strait Islander knowledge, skills, and experience, as equal partners in building a sustainable future for communities. Sustainable results require an empowering human rights-based approach that responds to the underlying causes of widespread persistent concerns for the protection, development and well being of Aboriginal and Torres Strait Islander children.

SNAICC looks forward to continuing to work in partnership with the Australian and Northern Territory Governments to ensure real change on the ground for children, families and communities. SNAICC would be happy, as the peak national body on Aboriginal and Torres Strait Islander children and families, to assist in facilitating a coalition of actors to work on an alternative proposal that provides a comprehensive, effective and sustainable response to the objectives of the Stronger Futures Package.

²² Strelley/Warralong School and Community Education and Partnership Agreement, Strelley Community School, accessed <http://aics.wa.edu.au/schools/strelley-community-school> on 03/02/2012.

²³ The School Community Partnership, Purunululu Aboriginal Independent Community School, Wurreranginy Community, 2008, accessed <http://aics.wa.edu.au/schools/purnululu-independent-aboriginal-community-school> on 03/02/2012.

Appendix A

Aboriginal and Torres Strait Islander Child Protection Outcomes Report – International Literature Review – Summary of Themes

This summary of themes is an extract drawn directly from a draft report, Libesman, T and Bell, T *Aboriginal and Torres Strait Islander Child Protection Outcomes Report*, SNAICC, Secretariat of National Aboriginal and Islander Child Care Inc, 2005. The report examined child welfare and protection legislative, policy and program frameworks in each of Australia's eight jurisdictions, Canada, the United States and New Zealand, highlighting the common approaches and theoretical frameworks which are driving reforms in Indigenous child welfare.

Indigenous community control

Around the world, child welfare systems and agencies are struggling to protect their reputations and carry out their responsibilities in an environment of ever-increasing reports of abuse and neglect. There is a growing consensus among professionals and the public that there is a need for fundamental change in how child protection services should be conceptualised and delivered, for mainstream as well as Indigenous populations. In particular there is a strong movement overseas to replace centralised Western models of child protection through the empowerment of Indigenous communities to develop effective local programs, services and strategies in response to the development, welfare and protection needs of their children.

In the United States the "Executive Session on Child Protection" concluded that a more collaborative, community-based approach to child protection was required.²⁴ The Session proposed that rather than child protection service agencies bearing sole responsibility for protecting children, other agencies, parents and the public should jointly share responsibility in "community partnerships for child protection". States including Missouri, Michigan and Florida, are developing new laws, policy and practice in response to these ideas.

The Session envisaged the development of comprehensive neighbourhood-based supports and services, which draw on family networks and other informal resources. These networks are closer to and more trusted by families in need than traditional services. The Session saw the development of formal community boards responsible for child protection as a viable alternative.

Given the parallel histories of dispossession and wholesale removal of children from Indigenous peoples in a number of colonised countries, the issue of community control is particularly important for Indigenous people.

Empowerment and phased capacity building of community based services

In 1993, an Ontario Aboriginal committee produced an Aboriginal family healing strategy, developed through a community consultation process involving 7000 Aboriginal people throughout the Province. The Strategy saw the empowerment of Aboriginal people as being

²⁴ Farrow, F & the Executive Session on Child Protection, *Child Protection: Building Community Partnerships*, John F Kennedy School of Government, Harvard University, Cambridge, Massachusetts, 1998

a central component in the healing of individuals, families, communities, and Aboriginal Nations.²⁵ The strategy required Aboriginal community control and funding for design and implementation. This process depended on a provincial government commitment to devolving authority to Aboriginal communities.

This phased handover of authority proposed in the Ontario Strategy involved the establishment of a joint management committee, with provincial government and Aboriginal community members. In the first phase, programming continued under provincial Ministry mandates while beginning to share control over family healing programs. In the medium to long term, full control will be devolved to the Aboriginal community.

The phasing aspect of the scheme was designed to accommodate differing levels of community readiness. This aspect of the scheme may be particularly relevant to Australian Indigenous child welfare, as the levels of social, physical, economic and political resources and infrastructure are likely to vary considerably between communities. A relative resource deficit is not necessarily a good reason to postpone a phased handover of responsibility for children's wellbeing to Aboriginal communities. An advantage offered by the phased handover concept is that it allows for some real change and development in delivery of Indigenous child and family services without, or prior to, legislative change.

A report based on a review of 15 Health Canada-funded Family Violence Prevention projects planned and implemented by Aboriginal people had this to say about Indigenous control of child welfare services:

"As ownership of family-related services has increasingly passed to Aboriginal control, it has become evident that simply staffing those services with Aboriginal people is only part of the answer. The services themselves need to be designed by Aboriginal people to make them work as a reflection of the host community and the belief system found there".²⁶

Decentralisation and community-based services

The view that Indigenous child and family service provision must get in touch with grass roots issues and circumstances by operating at the local level has been expressed repeatedly.²⁷

"The community requirement today is to design services from the bottom-up or from the community's perspective, which is grounded in a more complete understanding of its social reality. The challenge is to move from mandates which emphasise efficient delivery of services to mandates that focus on effective service outcomes".²⁸

A separate issue related to service decentralisation concerns the setting in which service delivery occurs. A number of studies suggest that services should not only be locally-based, but, where possible, offered at the client's home. Several researchers found that the

²⁵ Aboriginal Family Healing Joint Steering Committee 1993 at p. iii

²⁶ Hart, R, *Beginning a Long Journey: a Review of Projects Funded by the Family Violence Prevention Division, Health Canada, Regarding Violence in Aboriginal Families Ottawa: Health Canada, 1997* at p. 12

²⁷ Awasis Agency 1997; Weechi-it-te-win Family Services 1995; First Nations Task Force 1993; Ronnau et al. 1990

²⁸ Awasis Agency 1997 at p.106

institutional or office environment is alienating to Native Americans;²⁹ it is likely that this also applies to many other Indigenous people, particularly given the common legacy of traumatic past child welfare interventions. Besides their alienating atmosphere, there are several other reasons why institutional settings may not be ideal for delivery of Indigenous social services.

An assessment of six placement prevention and reunification projects in Native American communities found that the two most successful projects were home-based. By making the first contact in the client's home, the client's value in the relationship is established. The home visits also help to overcome the perceived reluctance of Native Americans and Alaskan natives to seek help outside the extended family³⁰

Understanding local community history and identity

For effective collaboration between government departments and Indigenous communities it is necessary for departments, and individuals who work within them, to have a meaningful understanding of the history and experiences which impact on the communities to be serviced. A key issue identified for consideration when working with Indigenous communities, is an understanding of communal identity and a related whole-of-community rather than individually-focused responses to child protection.

Partnerships and collaboration

Good partnerships and meaningful collaboration between government and Indigenous organisations are vital to the development of effective child welfare strategies which empower Indigenous communities. Collaboration is vital for "both understanding the specific limitations and ineffectiveness of existing services and programs, and for identifying the changes necessary to create culturally appropriate solutions".³¹

In describing a number of Native American child and family services entities considered exemplary, one report identifies collaboration as the key feature to their success. Several of these organisations had complex partnerships between various combinations of state agencies, tribal organisations, and non-governments organisations.³²

Cross Cultural Partnerships and Culturally Competent Work

In 1991, the United States National Indian Child Welfare Association produced a paper providing strategies for the development of effective cross-cultural partnerships for child abuse prevention. They found two vital factors in successful strategies to be inclusiveness and empowerment. Involvement of and consultation with community members should take

²⁹ Norton, I.M, and Manson, S.M, *Domestic Violence Intervention in an Urban Indian Health Center*, Community Mental Health Journal, 33(4), August, p.331-337, 1997 ; Tafoya 1990; Ronnau et al. 1990

³⁰ Smollar, J, & French, R, *A Study of Six Native American Placement Prevention and Reunification Projects*, Prepared by CSR Incorporated and Three Feathers Associates, 1990

³¹ Aboriginal Family Healing Joint Steering Committee, *For Generations to Come: The Time is Now - A Strategy for Aboriginal Family Healing* Unpublished Final Report (Ontario), 1993: ii

³² American Humane Association - National Resource Centre on Child Abuse and Neglect, *Tribal-State Relationships in Child Welfare: Ensuring High Quality Services to American Indian Children and Their Families* Englewood, CO.: American Humane Association, 1997

place throughout the project cycle, from design through to evaluation. Natural community support networks should be used and developed, while natural helpers and natural prevention networks should be engaged. Programs should be designed so that they are sustainably incorporated into the local Indigenous culture.

Factors contributing to culturally competent work.

There are a number of key issues which have been identified as relevant to culturally competent work with Indigenous people. Weaver³³ discusses a number of topics important for practitioners to be aware of when working with Native Americans. These are issues which appear to also have relevance in the Australian context:

- History – Weaver³⁴ states that interventions addressing trauma are often best approached through a group method, as a) much trauma has been perpetrated on people as a group, and b) Native American identity is focussed on groups. Community healing projects are becoming more common. Validation of historical grief is important in assessment and healing.
- Citizenship – The lack of recognition of (a) Indian nations by the state, and (b) individual Native Americans by nations, leads to problems with identity and self-esteem.
- Cultural identity – A thorough cultural assessment is essential. For example, how much does a client identify with Native American culture, or with a blend of Indian culture, or a blend of Indian and non-Indian culture?
- Sovereignty – Practitioners need to be aware of ICWA and rights of Native American agencies and communities to provide care and intervention.

It is important that child and family service providers are able to integrate knowledge and reflection with practical skills.³⁵

Client/agency relationships - The legacy of historical removals

An understanding of the impacts of trauma resulting from a history of forced and unjustified removals of children and culturally inappropriate service provision is necessary to develop effective social services policy analysis and child welfare programs within Indigenous communities.³⁶

Strategies such as culturally appropriate placement may not resolve underlying problems. Much evidence suggests that parents who themselves spent lengthy periods in adoptive placement or residential schools as children often have parenting or substance abuse problems which lead to the removal of their children, establishing an intergenerational

³³ Weaver, H, N, *Indigenous people in a multicultural society: Unique issues for human services*, Social Work, vol 43, no.3, 1998 pp.203-211

³⁴ Weaver, H, N, 1998

³⁵ Weaver, H, N, 1998

³⁶ McKenzie, , *Connecting Policy and Practice in First Nations Child and Family Services: A Manitoba Case Study*, 1997 in: Pulkingham, J and Ternowetsky, G., eds., *Child and Family Policies, Struggles, Strategies and Options*, Halifax; Fernwood, 1987

pattern of trauma and removal.³⁷ Factors which contribute to a lack of parenting skills include: the absence of positive parental role models; destroyed transmission of parenting knowledge and behaviours; absence of experience of family life; and sexual abuse.³⁸

Development of Culturally Appropriate and Locally Relevant Standards

Culturally inappropriate standards used for determining a child's need for substitute care have been a major contributor to disproportionate rates of removal in Indigenous populations.³⁹ In many places, culturally inappropriate alternate care standards lead to the placement of Indigenous children with non-Indigenous carers.⁴⁰ In the United States, Native American child welfare programs have successfully developed culturally sensitive placement standards, but have had to battle with states for acceptance. Tribally-controlled kinship care placements with aunts and uncles or grandparents are often seen by the non-Native child welfare system as foster care settings, with tribal agencies struggling to assert the legitimacy of these placements.⁴¹

Standards need to build on local family and community strengths, reinforce culture as a component of well being and take account of the resources available at the level of the local community or an individual family.

Staffing and training issues

A factor inhibiting increased Indigenous control of child and family services, which appears likely to apply in most countries and areas including Australia, is an inadequate supply of Indigenous workers (Durst 1998; Armitage 1993).

As well as the lack of Indigenous workers, a lack of supervision and administrative support is another impediment to the development of First Nation agencies.⁴² Other reasons for the short supply of Indigenous child and family services workers include difficulties in educating Indigenous social workers, especially those from isolated areas, and problems with retention of qualified First Nations staff, with few ongoing career development opportunities existing for staff at First Nations agencies.⁴³ A review of Native American child protection teams

³⁷ Morrisette 1994; Mannes, M, Seeking the Balance between Child Protection and Family Preservation in Indian Child Welfare, *Child Welfare* 72(2), 1993

³⁸ Morrisette 1994; Horejsi, C, Bonnie Heavy Runner, C & Pablo, J, *Reactions of Native American parents to child protection agencies: Cultural and community factors*, *Child Welfare*, vol. 71, no.4, 1992, pp.329-343

³⁹ First Nation's Child and Family Task Force, *Children first, our responsibility: report of the First Nation's Child and Family Task Force*, Manitoba, November 1993, Winnipeg: The Task Force, 1993; Mannes, M, *Seeking the Balance between Child Protection and Family Preservation in Indian Child Welfare*, *Child Welfare*, 72(2), 1993; Community Panel, Family and Children's Services Legislation Review in British Columbia, Aboriginal Committee, *Liberating our children, Liberating our nations: report of the Aboriginal Committee, Community Panel, Family and Children's Services Legislation, Review in British Columbia*, Victoria, B.C, The Committee 1992

⁴⁰ First Nations Task Force 1993; Community Panel 1992

⁴¹ Mannes 1993

⁴² Durst, D, *The Wellness of Canadian First Nations Children: Seeking Solutions Through Self-Government*, unpublished draft research paper, 1998

⁴³ First Nations Task Force 1993; Armitage, A, *Family and Child Welfare in First Nation Communities in Wharf*, Brian, ed., *Rethinking Child Welfare in Canada* Toronto: McClelland & Stewart pp. 131-171, 1993

found that permanency should be a critical factor in the choice of team members – high membership turnover brings problems with training, confidentiality and cohesion.⁴⁴

The under-representation of Indigenous staff in Indigenous child and family services needs to be addressed as a priority. A British Columbia consultation found that it has led to culturally inappropriate service delivery, and the devaluing of traditional Aboriginal healing practices.⁴⁵

Development of “whole of community” approaches

The conventional individually focused models applied by child and family service agencies and treatment services are often culturally inappropriate for use with Indigenous client groups due to differences in the nature of personal and communal identity. Individually focused treatment models often disregard the complexities of extended family networks in First Nations communities.⁴⁶

Many authors and community consultations find that a “whole-of-community” approach to child protection and other social service and treatment interventions is more appropriate and likely to lead to success.⁴⁷ For example, the Awasis Agency, a regionalised peak body for the Indigenous controlled child and family services of 18 northern Manitoba Aboriginal communities, integrates child protection with other services, observing that this inclusive approach mirrors the Aboriginal concept of self in that region.⁴⁸

It is important not to make generalisations about Indigenous identity and selfhood. The great diversity within Indigenous groups always calls for practitioners to obtain specific knowledge about the community, nation or client group. This information is best obtained from the client. Indigenous social services and cultural agencies are further sources of information.⁴⁹

Accountability of community based agencies

A number of accountability-related issues arise in the international literature on Indigenous child welfare. Political or personal interference with, and influence over, Indigenous-controlled child and family services is a very serious issue, which compromises the probity and effectiveness of some Indigenous agencies, and leaves Indigenous women and children the greatest losers. Other issues associated with devolved authority include: the problem of determining specific responsibilities where divided authority creates multiple accountability; the capacity of local services to provide assured child protection; and confidentiality.

⁴⁴ Carr, J, and Peters, M, *Assessment of Multi-Disciplinary Child Protective Teams in Five Western Washington Communities: Chehalis, Nisqually, Shoalwater Bay, Skokomish, Squaxin Island Thesis (M.P.A.)*, The Evergreen State College, Washington, 1997

⁴⁵ Community Panel 1992

⁴⁶ Connors, E, *Healing in First Nations: The Spirit of Family in The Ecological Perspective in Family – Centered Therapy*, New York: Edwin Mellen Press, pp.51-65, 1993

⁴⁷ Manitoba Justice Inquiry 1991; Durst 1998, First Nations Child and Family Task Force 1993

⁴⁸ Awasis Agency 1997. For a bibliography of Aboriginal and Indigenous Social Work Issues see, Sinclair, R., *Indigenous Research Applications in Social Work: Annotated Bibliography and Comments*, 2002, <http://www.aboriginalsocialwork.ca/research.pdf>

⁴⁹ Weaver 1998, Weaver, H. N., *Indigenous People and The Social Work Profession: Defining Culturally Competent Services Social Work*, 44(3):217-225, 1999

Gray-Withers also contends that gender-based power imbalance undermines child protection: *"In many communities, the male-dominated Native leadership has hidden and perpetuated problems of child abuse ... A process of empowerment for women and their communities will need to occur to allow for true community development and the acceptance of responsibility for current problems"*⁵⁰ Women tend to favour regional control of child welfare, in the hope that Chiefs would have less influence over child welfare outcomes in the absence of local control.⁵¹

The establishment of regional agencies is one possible response to some of the accountability issues facing Indigenous child and family services. West Region Child and Family Services (WRCFS) is a good example of a regionalised service. WRCFS has a regional abuse unit which initially investigates notifications, and assists local workers who then take responsibility for follow-up services and case management. McKenzie states: "This model is quite effective in assuring required expertise in investigations, while protecting local community staff from some of the conflicts that can occur around initial abuse referrals in small communities."⁵²

Traditional healing, cultural revival and culture as a practice tool

Much of the literature on Indigenous child welfare from Canada and the United States describes or advocates the use of traditional healing methods in child welfare cases. A number of authors and reports emphasise that for many Indigenous peoples, mental, emotional, spiritual and physical health are integrated, interdependent and inseparable.⁵³ However, the "spirit dimension" is badly neglected in conventional social work practice. A report by the Awasis Agency of Manitoba states that "innovative approaches to dealing with families are seldom examined . . . First Nations practice requires the adoption of an integrative approach, addressing cognitive, emotional, physical and spiritual development"⁵⁴ McKenzie⁵⁵ notes that holistic healing is important: "because it transcends the notion of helping in the narrow therapeutic sense. Instead, it emphasises the resilience of First Nation people, and their ability to utilize self-help and cultural traditions as a framework both for addressing problems and supporting future social development at the community level."

Traditional Native Americans often use Western medicine for physical conditions, and prefer treatment by traditional healers for emotional and spiritual healing. Barlow and Walkup. Horejsi et al.⁵⁶ contend that: *"The most effective parent training programs are those that blend principles derived from modern child development with the spirituality, customs, traditions and other cultural ways of their tribe."* A successful First Nations psychotherapist has developed a model for treating First Nations sexual abuse victims, where clients are

⁵⁰ Gray-Withers 1997 at p. 89

⁵¹ Gray-Withers 1997; Durst, D, McDonald, J, and Rich, C, *Aboriginal Government of Child Welfare Services: Hobson's Choice?*, 1995 in Hudson, J, and Galaway, B, (eds), *Child Welfare in Canada, Research and Policy Implications*, Toronto: Thompson Education Publishing

• ⁵² McKenzie, B, *Connecting Policy and Practice in First Nations Child and Family Services: A Manitoba Case Study*, 1997 in: Pulkingham, J and Ternowetsky, G., eds., *Child and Family Policies, Struggles, Strategies and Options* Halifax: Fernwood, 1997 at p. 106

⁵³ Voss et al. 1999; Barlow, A, Walkup, J,T, *Developing Mental Health Services for Native American Children*, *Child and Adolescent Psychiatric Clinics of North America* July; Vol 7(3) at pp.555-577, 1998; Awasis Agency 1997; Connors 1993

⁵⁴ Awasis Agency 1997 at p.25

⁵⁵ McKenzie 1997 at p.108

⁵⁶ Barlow and Walkup 1998. Horejsi et al. 1992 at p. 335

assessed prior to treatment to determine their degree of acculturation. After assessment, treatment is based on either Western psychotherapeutic practice, traditional First Nations practices, or a combination of the two. First Nations elders and psychotherapists cooperate in designing healing strategies.⁵⁷

Strengths versus deficits

Conventional social work practice generally operates using a “deficit reduction” model of intervention, which attempts to respond to perceived weaknesses in the individual.⁵⁸

The “strengths perspective”⁵⁹ in social work embraces concepts of empowerment, collaboration, healing from within and suspension of disbelief.⁶⁰ Native American and Canadian professionals report that the strengths perspective is more compatible with their communities than prevailing social work pedagogy and practice, which is generally Eurocentric.⁶¹ Indigenous child and family services will be enhanced by harnessing cultural strengths.⁶²

Healing through education and decolonisation

Indigenous groups involved with child welfare agree that child abuse and neglect in their communities result to a large extent from the effects of colonisation. A Canadian service puts it this way:

*“We understand the child welfare system as a system which has evolved in the dominant culture, to deal with the problems of industrial society. Within the Native community, the child welfare system is a system that deals with the symptoms of larger social problems – racism, poverty, underdevelopment, unemployment, etc. [We regard] child welfare problems as the result of the colonial nature of relations between the aboriginal people and the Euro-Canadian majority”.*⁶³

Few child welfare service models developed for or by Indigenous people respond directly to the colonial causes of problems. Helping the client to get in touch with Indigenous identities is an important part of the process. The following models consider the above issue:

*“Ma Mawi Wi Chi Itata is an urban Indian social agency established in Winnipeg in 1984: Ma Mawi integrates mainstream social work practices with Indigenous traditions in its work. The emphasis is on positive relations with other agencies, advocacy, exchange and collaboration. Ma Mawi is the largest urban Native agency in Canada. They describe their practice as a process of decolonisation . . . We see this as a conscious process through which we regain control over our lives and resources”*⁶⁴

⁵⁷ Connors 1993

⁵⁸ Voss et al. 1999; Awasis Agency 1997

⁵⁹ Saleebey 1992

⁶⁰ Voss et al. 1999

⁶¹ Voss et al. 1999, Awasis Agency 1997

⁶² Tong and Cross 1991; Ronnau et al. 1990

⁶³ Ma Mawi Wi Chi Itata 1985, cited in Armitage 1993 at p.159

⁶⁴ Ma Mawi Wi Chi Itata 1985

Other findings included that: (a) educating people about historical trauma leads to increased awareness of its impact, and symptoms; (b) the process of sharing experiences with others of similar background leads to a cathartic sense of relief; and (c) the healing and mourning process initiated, resulted in an increased commitment to ongoing healing work at an individual and community level.

Very high proportions of respondents were favourable about the traditional healing workshops, in terms of grief resolution, and feeling better about themselves. Parenting was improved.

Participants are taught about the initial and ongoing breakdown of traditional systems, values, beliefs and practices around caring for children, and traditional family structures, which occurred as a result of white settlement. Participants gain a detailed understanding of various specific factors of influence, including: the effects of mixed marriages on family structures; introduction of Christianity; the decline of the Maori language; and the government's policy of assimilation, particularly through European schooling.

Community awareness raising and education

Some child abuse and neglect intervention projects attempt to bring about change through strategies involving community-wide awareness raising, as distinct from individual interventions with abuse cases. Cross and LaPlante argue that the greatest constraint to child abuse and neglect interventions in Native American communities is denial, and that grassroots community involvement is the best antidote.⁶⁵ They point out that prevention can be grounded in traditional values and principles. Although acknowledging the substantial breakdown of tradition in some communities, what remains can be drawn upon. Cross and LaPlante contend that grassroots efforts work well because "no one knows the community better than the community itself".⁶⁶

Sexual abuse: Traditional healing and offender treatment

Rates of child abuse and neglect are almost universally higher in Indigenous compared with general populations. The unique histories of trauma and injustice suffered by Indigenous people under colonial regimes are clearly associated with the disproportionately high rates of sexual abuse in communities today. These specific circumstances demand consideration in health and welfare responses.

Many Canadian First Nations communities have recently adopted alternative strategies for dealing with sexual abuse. The Hollow Water program, the Community Holistic Circle Healing Project (CHCH), is used with sexual abuse cases in Manitoba Indigenous communities. CHCH heals by providing support, guidance and counselling to all those affected by sexual abuse, including the victim, the perpetrator, and respective families (see Family Group Conferencing).

By dealing with the needs of all involved, CHCH is seen as healing the community, not addressing an individual problem. The method is seen as a long term solution, as the whole process is estimated to take five years. CHCH empowers communities by allowing members

⁶⁵ Cross, T, & LaPlante, J, *Grassroots Prevention of Child Abuse and Neglect in Indian Communities: A Guide for the Community Organiser*, National Indian Child Welfare Association, Portland, Oregon

⁶⁶ Cross and LaPlante 1995 at p. 27

to generate their own response to individual situations, in a manner which gives consideration to the specifics of each case.

The Hollow Water program is widely viewed as a successful example of an Indigenous-controlled sexual abuse treatment program.⁶⁷ A cost-benefit analysis of the Hollow Water program found that for every \$2 which the Provincial and Federal Government spent on the program the community receives well over \$6.21 to \$15.90 worth of services. Further, the program has a very low recidivism rate with only two clients re-offending over a ten-year period. (The cost benefit analysis did not take into account the costs saved from perpetrators not re-offending.) Other benefits from the program included improved holistic health for children, more people completing their education, better parenting skill, an increase in sense of safety, a return to traditional ceremony and a decrease in overall violence.⁶⁸

Self Determination

The United States, Canada, New Zealand and Australia have all acknowledged the importance of Indigenous communities' control over their children and families. Despite this governments have generally retained the power or have failed to dedicate the necessary resources necessary to effect this recognition.⁶⁹

The United States Indian Child Welfare Act represents the highest level of transfer of decision making authority to Indigenous peoples. And in New Zealand the Maori people have been included in the primary decision making process, the family group conference, which is mandated by the *Children, Young Persons, and Their Families Act 1989*. In Canada a move towards enacting legislation based on self-determination by Indigenous people has occurred over the last few years and new legislation, treaties and negotiations are not uncommon, so that First Nations communities are achieving far greater control over their children and families.⁷⁰ Whilst not completely based on international understandings of Self-determination, the new structure in Manitoba offers a good example of a transfer of jurisdiction of child welfare.

In Australia generally and particularly within the child welfare area, there appears to be a lot of misinformation and misunderstanding as to what Indigenous what self-determination means in practice.⁷¹ For example, it is not enough to recruit Indigenous field officers and policy advisers, fund Indigenous organisations or implement the Aboriginal Child Placement Principle within child protection legislation.⁷² These are important elements and in fact crucial to ensuring that Indigenous people have equality of services, however there are international understandings of what Indigenous self-determination means and it is important that governments and departments within Australia become aware of these

⁶⁷ Connors and Oates 1997; Awasis Agency 1997; Lajeunesse 1993

⁶⁸ Native Counselling Services of Alberta, *A Cost-benefit Analysis of Hollow Water's Community Holistic Circle Healing Process*, Ottawa, Ontario, Solicitor General of Canada, 2001

⁶⁹ For a brief outline of self-government programs in Canada, see Hurley, M, C, and Wherrett, J, *In Brief, Aboriginal Self-Government*, Parliamentary Research Branch, Library of Parliament, 27 September 1999, Revised 1 August 2000

⁷⁰ HREOC 1997; Cunneen & Libesman, 2000

⁷¹ Putting the picture together, Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal communities, citing Litwin 1997

⁷² See Tomison at pp.63-64 citing Litwin 1997

international standards and understandings acknowledging that Indigenous peoples, like other Australians, should be accorded citizenship entitlements.

The implementation of self determination principles in a contemporary framework would require the transfer of aspects of control and resources from central government agencies to local Indigenous communities.

Annexure A

Recommendations from the Little Children are Sacred Report on Education (pp. 27-28)

50. That, given that children and young people who chronically non-attend or are excluded from school are severely disadvantaged and that there is a correlation between school non-attendance and criminal activity, poverty, unemployment, homelessness, violence and sexual abuse, the government must as a matter of highest priority ensure:
1. the Department of Employment, Education and Training (DEET) implements the attendance strategies set out in the Education Chapter and any other strategies required to ensure all children of school age attend school on a daily basis, in accordance with DEET's responsibilities to provide compulsory education for all school-age children
 2. every child aged 3 years by 1 February 2008 should attend, on or about that date, and continuously thereafter, a pre-school program
 3. every child aged 5 years by 1 February 2008 should attend, on or about that date, a full-time transition program and, in this regard, DEET to re-visit recommendations No. 80-86 of the Learning Lessons Report (1999) and complete their implementation.
51. That by reference to the very considerable work already done as part of the Learning Lessons Report and by the Learning Lessons Implementation Steering Committee (2002-2005) and the review which resulted in the Indigenous Languages and Culture in Northern Territory Schools Report 2004-2005, the Inquiry recommends DEET examines issues such as:
- a. pedagogy;
 - b. how best to deliver the same outcomes for Aboriginal students as other students
 - c. flexibility in the timing of the school year
 - d. smaller class sizes especially in lower grades
 - e. remedial classes for students who have been out of school for some time
 - f. separate classes for boys and girls aged 12 and above
 - g. employment of Aboriginal and Islander Education Workers (AIEW) in all schools
 - h. cross-cultural training for Aboriginal children on "dominant culture" and all children to be taught about Aboriginal people's history and culture. (Recommendation 51, p.27)
52. That, with reference to the wealth of existing knowledge and reports such as Learning Lessons and Indigenous Languages and Culture in Northern Territory Schools coupled with the need to have good teachers, healthy and secure students and ownership of the educational system by the local communities, DEET:
- a. introduce a universal meals program for Aboriginal students (breakfast, morning tea, lunch and afternoon tea) with parents to contribute to the cost of providing meals and the community or volunteers to undertake food preparation
 - b. appoint a full time home-school liaison officer for every school;
 - c. appoint 20 additional school counsellors to service those schools currently without such counselors i.e. the major remote towns, the town camps in the regional centres, and one in each group school (i.e. those schools in remote areas which supply services to a number of smaller

- d. encourage the utilisation of schools after hours for purposes such as community centres, supervised homework rooms, community meeting rooms, adult education and training courses
 - e. appoint an AIEW Coordinator to enhance the role and functioning of AIEW staff to recognise they are significant members of the school support team e.g. review their role within the school community, enhance recruitment and develop their capacity
 - f. consider the introduction of teacher employment initiatives such as remote teacher incentive packages to encourage teachers to remain in remote communities for three years or longer. (pp.27-28)
53. That, notwithstanding that Northern Territory schools have a single curricula framework, DEET is to ensure all teachers in remote schools consult with local communities as to any appropriate modifications, consistent with Recommendations 100, 102, 106, 107 and 108 in the Learning Lessons Report.
54. That DEET urgently implements the outcomes of the Indigenous Languages and Culture Report.
55. That early consideration be given to the provision of additional residential schools for Aboriginal students, designed specifically for them and being located within reasonable proximity to their country to enable maintenance of family and cultural ties, taking into account prospects for the involvement of the non-government sector and for Australian Government funding.
56. That in order to foster and support a culture that values learning throughout life and provides for those people who identify a need or desire for further education, the Government acknowledge the importance of adult and community education and provide more opportunities for Aboriginal people in regional and