

# **CLOSE THE GAP**

**Close the Gap Campaign  
Steering Committee**

**Submission in response to the *Forrest  
Review: Creating Parity***

***17 September 2014***

## Table of Contents

	<b>Introduction.....</b>	<b>3</b>
<b>1</b>	<b>Principles to guide employment and welfare reform .....</b>	<b>3</b>
<b>2</b>	<b>Recommendations .....</b>	<b>4</b>
<b>3</b>	<b>Building on the Forrest Review: Creating Parity Report.....</b>	<b>5</b>
<b>4.</b>	<b>General Commentary.....</b>	<b>9</b>
	<b>Appendix 1: Membership and a brief history of the Close the Gap Campaign Steering Committee.....</b>	<b>12</b>
	<b>Appendix 2: Outline of Sen’s Capabilities Framework and how it may apply to addressing Aboriginal and Torres Strait Islander Disadvantage. ....</b>	<b>14</b>

## Introduction

1. The *Close the Gap Campaign Steering Committee* welcomes the opportunity to respond to the *Forrest Review: Creating Parity Report* (the Report).
2. Australia's peak Aboriginal and Torres Strait Islander and non-Indigenous health bodies, health professional bodies and human rights organisations operate the Close the Gap Campaign. (See Appendix 1 for the membership and a brief history of the Close the Gap Campaign Steering Committee.)
3. Closing the gap in Aboriginal and Torres Strait Islander health and wellbeing outcomes in a generation is a long term objective and requires a long term commitment that will span policy cycles, funding agreements and governments. The Campaign's goal is to raise the health and life expectancy of Aboriginal and Torres Strait Islander peoples to that of the non-Indigenous population within a generation. In order to successfully address health inequality, all areas of life need to be addressed in an interdependent and holistic way. Consequently the Campaign Steering Committee places great significance on the issue of employment and welfare reform as a key social and cultural determinant of health.
4. The Campaign Steering Committee has some concerns with the report which we discuss in the general commentary section of this submission. We are particularly concerned that the review dramatically overstepped its original Terms of Reference, denying Aboriginal and Torres Strait Islander organisations and communities an opportunity to make detailed submissions on the range of issues covered in the Report. However, in this submission, we firstly want to emphasise the points of agreement as there are some basic ideas and comments in the report which resonate with the Close the Gap campaign ideas and priorities.

## 1 Principles to guide employment and welfare reform

5. The Campaign Steering Committee takes a human rights approach to achieving Aboriginal and Torres Strait Islander health equality, which is highly relevant to how governments provide income support, strengthen individual and family capability and improve access to employment. The rights based approach forms a core part of the Campaign Steering Committee's operations and policy deliberation and in relation to social determinants of health includes the following principles:
  - Rights: Right to an adequate standard of living, including food, water and housing.
  - Participation: Aboriginal and Torres Strait Islander peoples participating in decisions that affect them, including through their own representative bodies.
  - Partnership: Shared decision-making between Governments and Aboriginal and Torres Strait Islander peoples and their own representative bodies.

- Leadership: Closing the Gap requires a national effort with the Federal Government leading the work with all states and territories. The Commonwealth has the responsibility to advocate for and coordinate their own, States and Territories efforts.
  - Evidence: Research findings and the evidence base informing the development of programs, policies and practices.
  - Quality: All facilities, goods and services for Aboriginal and Torres Strait Islander peoples, whether delivered by Indigenous specific providers or the mainstream, are culturally secure and are of the highest quality.
  - Sustainability: Investment in prevention and early intervention over the long term.
  - Empowerment: Aboriginal and Torres Strait Islander peoples taking responsibility for and making decisions about their physical, spiritual, cultural, social and economic wellbeing.
  - Capacity building: Building and supporting Aboriginal and Torres Strait Islander leadership, expertise and capacity.
6. We also point to the following principles underpinning Oxfam’s development work as ways to address poverty as a determinant of ill health. Oxfam’s work neatly summarises our approach to addressing poverty:
- Recognises that imbalances in power relations contribute to marginalisation and prevent poor people from exercising their rights;
  - Is participatory, recognising that all people, including those living in poverty, have a right to be involved in processes that impact on their lives.
  - Recognises that all development actors and all stakeholders are accountable to one another.
  - Promotes equality and non-discrimination, with a particular focus on vulnerable or marginalised people(s).
  - Is holistic - recognising that economic poverty has deeply felt social, cultural and political causes and effects, and that the spectrum of human rights must be understood together to constitute the basic necessities for a life of dignity and freedom.
  - Recognises that rights also involve corresponding responsibilities – the fact that we all have human rights means we are also all duty bearers.
  - Makes use of existing legal systems, and, depending on the context, develop links between development goals and international human rights laws.

## 2. Recommendations

7. In regards to the matters addressed in the Report, the Campaign Steering Committee makes the following recommendations:

**Recommendation 1:** That a Parliamentary Inquiry is established to consider the recommendations of the Forrest Review given the far-reaching nature of the report and the limited opportunity to make submissions. Among the issues the Inquiry should consider are:

- How best to ensure efforts to address inequality/parity are part of a nationally coordinated long term approach such as National Partnership

Agreement or a similar Council of Australian Governments (COAG) approach

- How to ensure a genuine partnership approach in development and implementation of policies, including consideration of an Aboriginal and Torres Strait Islander taskforce or leadership forum with representation from all the relevant representative organisations
- The development of a culturally valid and reliable framework for measuring outcomes, evaluating strategies, tracking and publically reporting progress against targets
- The development of principles to ensure the empowerment of local communities including an Aboriginal and Torres Strait Islander agencies first approach to funding and program delivery.

**Recommendation 2:** That the government should restore funding to preventative health programs and services and Aboriginal and Torres Strait Islander Family Centres.

**Recommendation 3:**, That in the area of employment

- Cross-cultural competence training be mandatory for employment services,
- Employment services employ Aboriginal and Torres Strait Islander liaison workers and
- Employers be encouraged to participate in appropriate cross-cultural competence training.

**Recommendation 4:** That justice targets, in relation to incarceration and community safety, be developed in addition to the current Closing the Gap range of targets to address the overrepresentation of Aboriginal and Torres Strait Islander peoples in the criminal justice system

### 3. Building on the *Forrest Review: Creating Parity Report*

8. One of the main themes in the Report is that in order to successfully address issues of Aboriginal and Torres Strait Islander disadvantage there needs to be a focused, holistic, co-ordinated national approach. The Campaign Steering Committee has been advocating for such an approach since its inception. It is critical that the approach is driven by Aboriginal and Torres Strait Islander organisations and leaders. We believe that given the complexity of the issues, a forum that involves those leaders with relevant Ministers and Departmental heads is essential to create a pathway to reform that has broad support.
9. We therefore welcome the Report's emphasis on "empowering first Australians"<sup>1</sup> and Aboriginal and Torres Strait Islander organisations. As it suggests;

*Instead of the crippling government oversight of thousands of small projects and funding agreements, I propose that service delivery be consolidated in responsible, properly-governed first Australian*

*organisations with a system of verification to ensure probity and accountability.*<sup>ii</sup>

10. In fact, the Campaign Steering Committee recommends the establishment of an *Aboriginal and Torres Strait Islander agencies first* principle to guide departmental decisions concerning health/community services funding. The principle would privilege the need for Aboriginal and Torres Strait Islander community access to services that are culturally appropriate without diminishing the need for services that are effective, have appropriate governance structures and are accountable to both the communities they serve and the general public. This approach should take precedence over competitive tendering which the report found to be inadequate.<sup>iii</sup> As Professor Fiona Stanley points out in the Report:

*We have got a juggernaut of spending that is wasted because Aboriginal people are not appropriately engaged with the solutions. When Aboriginal people are engaged with the solutions, not only do they work but the self-esteem within the Aboriginal community rises because people are proud and that affects things like adolescent suicide and mental health.*

11. Aboriginal community controlled organisations are the embodiment of Aboriginal and Torres Strait Islander people engaged on the solutions and should be supported. The Campaign Steering Committee supports the concept of empowering local Aboriginal and Torres Strait Islander leadership in decision making and the privileging of cultural authority within those processes.<sup>iv</sup> How cultural authority is understood, established and identified will need further exploration.

12. To ensure effectiveness across the nation of spending on services to Aboriginal and Torres Strait Islander communities we concur with the report's emphasis on national co-ordination between governments<sup>v</sup> and bi-partisanship<sup>vi</sup>. To that end we are calling for the return of a nationally coordinated approach such as through National Partnership Agreement or a similar COAG approach. As the report suggests past 'failure' of previous approaches to tackling Aboriginal and Torres Strait Islander disadvantage rest with inadequacies of universalist and mainstream services and government department coordination.<sup>vii</sup> To that end we recommend the establishment of Aboriginal and Torres Strait Islander oversight of the health/community services system to be genuine partners in policy and program development and implementation of strategies and services. Bodies such as the National Health Leadership Forum can be the basis for consideration of what would become the Aboriginal and Torres Strait Islander Taskforce, as suggested in the report,<sup>viii</sup> on addressing disadvantage.

13. Importantly, the report points to the need for accountability for outcomes.<sup>ix</sup> Building community capacity to overcome historic disadvantage is a complex area as success in is difficult to analyse and measure. It relates to issues of understanding social impact and developing an outcomes framework to measure success. Rather than limiting the social impact of development to economic indicators of wealth/income, individual satisfaction or formal individual legal

rights, economist-philosopher Amartya Sen's work on the *capabilities approach* looks at people's own definitions of their aspirations and freedoms with a focus on the themes of freedom, functionings, capabilities and agency.<sup>x</sup> More detail on the capabilities approach and its potential for addressing Aboriginal and Torres Strait Islander disadvantage is at Appendix 2. We recommend that the Federal Government work with Aboriginal and Torres Strait Islander peak health and welfare organisations to investigate and develop an Aboriginal and Torres Strait Islander peoples outcomes framework that would guide and drive community service provision to Aboriginal and Torres Strait Islander communities.

14. As ACOSS, CEO Dr Goldie suggests in ACOSS's media release in response to the report:

*We urge the government to review the evidence and engage directly with communities in determining employment and education pathways for Aboriginal and Torres Strait Islander people, and all those in our community facing barriers to participation.*

15. **Recommendation 1:** That a Parliamentary Inquiry is established to consider the recommendations of the Forrest Review given the far-reaching nature of the report and the limited opportunity to make submissions. Among the issues the Inquiry should consider are:

- How best to ensure efforts to address inequality/parity are part of a nationally coordinated long term approach such as National Partnership Agreement or a similar COAG approach
- How to ensure a genuine partnership approach in development and implementation of policies, including consideration of Aboriginal and Torres Strait Islander taskforce or leadership forum with representation from all the relevant representative organisations
- The development of a culturally valid and reliable framework for measuring outcomes, evaluating strategies, tracking and publically reporting progress against targets.
- The development of principles to ensure the empowerment of local communities including an Aboriginal and Torres Strait Islander agencies first approach to funding and program delivery

16. We are encouraged by the emphasis in the report on the provision of a range of preventative health and wellbeing services, such as intensive prenatal and early childhood services, parenting education and community health programs<sup>xi</sup>. There is acknowledgement of the benefit and effectiveness of Aboriginal and Torres Strait Islander Community Controlled organisations' ability to deliver preventative services in Chapter 1 of the Report. As the report suggests one of the problems concerning past policy is that there has been "*an almost exclusive focus by governments on treating the symptoms of entrenched disadvantage, rather than preventing it, so success is limited and very expensive.*"<sup>xii</sup> The recent Federal Budget measures have included cuts to spending on preventative health programs, for example the anti-smoking program, and Aboriginal and Torres Strait Islander Child and Family Centres. We believe that the Report provides an opportunity for the Federal Government to reconsider these measures.

17. **Recommendation 2:** That the government should restore funding to preventative health programs and services and Aboriginal and Torres Strait Islander Family Centres.

18. In terms of access to employment our view is that cross-cultural competence is an essential tool in enabling employment services and employers in general to provide work environments which are embracing of Aboriginal and Torres Strait Islander peoples. Given the challenges of closing the gap in employment levels between Aboriginal and Torres Strait Islander peoples and non-indigenous people, it is important that employment services are able to liaise effectively with Aboriginal and Torres Strait Islander communities and organisations and provide a service which is both itself cross-culturally safe and provide an advisory bridge to employers that encourages cross-cultural safety. These aims can be achieved through the employment of Aboriginal and Torres Strait Islander liaison workers within employment services and the facilitation of cross-cultural training by certified Aboriginal and Torres Strait Islander cross-cultural trainers. The reality is that Aboriginal and Torres Strait Islander peoples frequently experience cultural ignorance or at worse direct racism in the work place which acts as a disincentive for their participation in mainstream employment.

19. **Recommendation 3:**, That in the area of employment

- Cross-cultural competence training be mandatory for employment services,
- Employment services employ Aboriginal and Torres Strait Islander liaison workers and
- Employers be encouraged to participate in appropriate cross-cultural competence training.

20. Finally, we note that the Report raises issues concerning the impact and inadequacy of current incarceration policies<sup>xiii</sup>. In terms of what happens in jail, we also welcome the Report's suggestion of providing training for offenders to reduce recidivism.

*We have specific measures in this review to stop people entering gaol in the first place and to make incarceration an empowering experience that results in the individual being prepared for independence and contribution to society on release.*<sup>xiv</sup>

21. More broadly, the Close the Gap Steering Committee supports the development of justice targets to address the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system, including high rates of incarceration and victimisation.

22. **Recommendation 4:** That justice targets in relation to incarceration and community safety be developed in addition to the current Closing the Gap range of targets to address the overrepresentation of Aboriginal and Torres Strait Islander peoples in the criminal justice system.



#### 4. General Commentary

23. While acknowledging the breadth of the *Forrest Review: Creating Parity* Report and recognising its key motivation is to address Aboriginal and Torres Strait Islander peoples' disadvantage, the Campaign Steering Committee has some concerns with the overall perspective and particularly the lack of direct engagement with Aboriginal and Torres Strait Islander leaders and organisations apart from those who deliver training. The report goes far beyond the terms of reference, from looking at training and employment to the development of a broad-based policy platform. Aboriginal and Torres Strait Islander organisations and leaders should have been made aware of the nature of the report, as an overhaul of all policy concerning Aboriginal and Torres Strait Islander peoples, during the submission process. A more comprehensive consultative approach would have enabled responses that draw on a larger research and evidence base and greater engagement with Aboriginal and Torres Strait Islander communities. We note that according to the inquiry website submissions were asked to be of only two pages length, despite the breadth and reach of issues canvassed in the report.
24. The Report's fundamental answer to addressing disparity between Aboriginal and Torres Strait Islander peoples and non-indigenous people is for the former to engage more productively with "the power of the market"<sup>xv</sup>. Education and employment are portrayed as silver bullets to disadvantage without regard to the positive nature of cultural identity, the impact of the colonial past and how those injustices continue to resound today and the ongoing problem of racial discrimination and cultural disrespect towards Aboriginal and Torres Strait Islander peoples. The view of the Campaign Steering Committee is that any approach that fails to take into account the intergenerational structure of injustice will fail to tackle the root causes of Aboriginal and Torres Strait Islander disadvantage. This includes healing from the profound grief and loss resulting from the injustices, as well as a focus on empowerment, safe spaces and life skills to assist people to reclaim their values and strengths. While we acknowledge the importance of improving access to education and employment, the Campaign Steering Committee believes that it is only when Aboriginal and Torres Strait Islander peoples have a measure of control over that access and are enabled to have agency in their lives that productive solutions can be reached.
25. The close the gap approach, with its multi-layered focus on health and wellbeing, needs to be maintained. Our view is that cultural identity, self-determination and anti-racism measures are foundational to better outcomes. Unfortunately, exploration of the importance of cultural identity and the impact of racism and cultural misunderstanding is peripheral in the Report. Indeed, racism, other than the "racism of low expectations" is mentioned only once and never explored. Cultural competence is only mentioned three times in a limited manner despite the fact that it underpins effectiveness within any program.
26. In the area of education the Report focuses on punitive approaches rather than a holistic analysis of why attendance is dropping. Concerning education, the

Campaign Steering Committee takes a different view to the report. While agreeing with the sentiment that the education system “*is not giving Indigenous children a decent education*”<sup>xvi</sup> for the education system to succeed for Aboriginal and Torres Strait Islander peoples, it must privilege cultural safety and have a stronger focus on community engagement. We need to find out why some Aboriginal and Torres Strait Islander students are reluctant in some areas to attend school before coming up with particular measures. The focus should be on the schools, so that they provide a culturally positive environment and engage productively with families. The proposal to provide schools with extra support to engage with families and local community is fundamental to improve school engagement. Re-consideration of bi-lingual education and a focus on professional development for teachers would be more effective than the punitive approach suggested in the report. The Campaign Steering Committee notes the importance of culture in education systems. We believe that the government should take greater account of the interplay between health and school attendance and pursue holistic approaches that seek to address the full range of attendance barriers rather than simple punishment.

27. In terms of employment there is little analysis of why there is a growing gap in employment and no acknowledgement of the impact of the changes to the Community Development Employment Program (CDEP) during the past six years. ‘Meaningful employment’<sup>xvii</sup> and ‘real jobs’<sup>xviii</sup> are narrowly defined and don’t sufficiently take into account what Aboriginal and Torres Strait Islander peoples consider to be meaningful in their cultural context apart from possible culturally-based programs that are either useful in developing skills or future markets form the broader economy<sup>xix</sup>. In contrast to the CDEP, individualised employment approaches do little for communities with broad employment needs, nor pay respect to the importance of the strength of relationships. Examples exist which show that nurturing personal and professional relationships leads to the development of individual and group skills, which in turn lead to effective working partnerships. These ultimately promote a commitment to long term positive change<sup>xx</sup>

28. Importantly the health sector is the biggest single employer of Aboriginal and Torres Strait Islander people currently employing 14.6% of employed Aboriginal and Torres Strait Islander people. More than 3,500 Aboriginal people are employed in community controlled organisations as doctors, specialists, nurses and administrators and, given the increasing demand for their services, have the potential to employ and train many more. Aboriginal and Torres Strait Islander health services and community controlled organisations provide pathways to employment for community members through internships and ‘in-house’ training, reducing welfare dependency and connecting individuals, families and communities to the wider economy. Better resourcing and an expansion of this sector would solve some of the issues relating to Aboriginal unemployment while improving the health and providing benefits to local and regional employers. Instead, we have the prospect of higher university fees and uncertainty around the funding of the Indigenous Tutorial Assistance Scheme.

29. Land as the spiritual, legal, political and social foundation of Aboriginal and Torres Strait Islander communities is not explored; rather the understanding of

land presented in the Report is limited to its potential to support economic growth. Hence employment duties that require Aboriginal people to go against these foundations may lead to values discordance, loss of social and emotional wellbeing and mental health problems.

30. Finally, the Report offers a critique of the current income management arrangements but recommends Healthy Welfare Card which would apply to all, and not just Aboriginal and Torres Strait Islander peoples<sup>xxi</sup>. The notion of the Healthy Welfare Card is touted as a transition to independence but that goal is clearly at odds with independence if it is bureaucracy that determines people's individual financial arrangements. The Campaign Steering Committee believes that there is a need for measures that provide for income security to prevent poverty and ill-health but that these measures should also be enabling and empowering so that recipients are encouraged, if able, to seek employment or further education. This should occur through financial incentives rather than financial punishments. Federal Government proposals to, for example, delay unemployment benefits to young people or arbitrarily force single mothers to seek employment when their children turn 8 are unlikely to effectively or sustainably address issues of poverty and disadvantage.
31. The Campaign Steering Committee believes that the following principles should guide social security policy:
- Income support reform is focused on reducing poverty, system complexity, and exclusion from employment.
  - No disadvantaged group is worse off.
  - Payments are targeted to need.
  - The system supports and encourages employment participation or educational/training opportunities.
  - The employment services system needs to be more responsive to the needs of both jobseekers and employers and be culturally competent.
  - Developed in partnership with the groups affected by the measures
32. Disadvantage and inequality for Aboriginal and Torres Strait Islander peoples is linked to the continuing impact of colonisation. The Campaign Steering Committee advocates for a rights-based approach to address inequality. We therefore refer the committee to the research and analysis of the Harvard Project in the United States, which looks at the relationship between Indigenous self-determination and economic capacity building and participation.<sup>xxii</sup>

## Appendix 1: Membership and a brief history of the Close the Gap Campaign Steering Committee

Australia's peak Aboriginal and Torres Strait Islander and non-Indigenous health bodies, health professional bodies and human rights organisations operate the Close the Gap Campaign. The Campaign's goal is to raise the health and life expectancy of Aboriginal and Torres Strait Islander peoples to that of the non-Indigenous population within a generation: to close the gap by 2030. It aims to do this through the implementation of a human rights-based approach set out in the Aboriginal and Torres Strait Islander Social Justice Commissioner's *Social Justice Report 2005*.<sup>xxiii</sup>

The Campaign Steering Committee first met in March 2006. Our patrons, Catherine Freeman OAM and Ian Thorpe OAM, launched the campaign in April 2007. To date, almost 200,000 Australians have formally pledged their support.<sup>xxiv</sup>

Australian Government and Opposition party representatives, including the then Prime Minister and Opposition Leader,<sup>xxv</sup> signed the Close the Gap Campaign's *Close the Gap Statement of Intent* in March 2008 at the Campaign's National Indigenous Health Equality Summit. Successive Prime Ministers, Opposition Leaders, and Greens Party leaders have indicated their continuing support. The *Close the Gap Statement of Intent* was subsequently signed by the Governments and Opposition Parties of Victoria in March 2008; Queensland in April 2008, Western Australia in April 2009; the Australian Capital Territory in April 2010, New South Wales in June 2010; and South Australia in November 2010.

As acknowledged in the *National Indigenous Reform Agreement*, 'the [COAG] Closing the Gap Agenda was developed in response to concerns raised with governments by Indigenous and non-Indigenous persons, including through the Close the Gap Campaign and the National Indigenous Health Equality Summit'.<sup>xxvi</sup> As such, the Campaign has provided significant impetus for the Council of Australian Governments:

- Setting six 'Closing the Gap' Targets, including to achieve Aboriginal and Torres Strait Islander life expectancy equality within a generation, and to halve the Aboriginal and Torres Strait Islander under-fives mortality rate gap within a decade; and
- Agreeing, by November 2008, the 'closing the gap' national partnership agreements. These have brought with them approximately five billion dollars in additional resources, including the \$1.57 billion attached to the *National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes* that expired in June 2013; and the \$564 million attached to the *National Partnership Agreement on Indigenous Early Childhood Development* that expires in June 2014.

The Close the Gap Campaign a growing national movement:

- Every year since 2010 the National Rugby League has dedicated a round of matches to Close the Gap. The Close the Gap rounds are broadcast to between 2.5 and 3.5 million Australians each year.
- In 2007 the first National Close the Gap Day was held. It involved five large State events and more than 300 community events. National Close the Gap day has become an annual event since 2009. Australians across every State

and Territory participate in this event. Health services, schools, businesses, hospitals, government departments, ambulance services, non-government organisations and others hold events to raise awareness and show support for the Campaign and its goals.

- Reflecting the importance of the Campaign to nation, it has become the largest and highest profile Aboriginal and Torres Strait Islander health event in the country. One thousand and three hundred events involving over 150,000 Australians were held on National Close the Gap Day in 2014.

The current members of the Close the Gap Campaign Steering Committee are:

### **Co-chairs**

Ms Kirstie Parker, Co-chair of the National Congress of Australia's First Peoples  
Mr Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner,  
Australian Human Rights Commission

### **Members**

Aboriginal and Torres Strait Islander Healing Foundation  
Australian Indigenous Doctors' Association  
Australian Indigenous Psychologists' Association  
Congress of Aboriginal and Torres Strait Islander Nurses and Midwives  
Indigenous Allied Health Australia  
Indigenous Dentists' Association of Australia  
National Aboriginal Community Controlled Health Organisation  
National Aboriginal and Torres Strait Islander Health Workers' Association  
National Association of Aboriginal and Torres Strait Islander Physiotherapists  
National Congress of Australia's First Peoples  
National Coordinator — Tackling Indigenous Smoking (Dr Tom Calma AO –  
Campaign founder and former Aboriginal and Torres Strait Islander Social Justice  
Commissioner)  
National Indigenous Drug and Alcohol Committee  
The Lowitja Institute  
Torres Strait Island Regional Authority  
Australian College of Nursing  
Aboriginal Health and Medical Research Council  
Australian Human Rights Commission (Secretariat)  
Australian Medical Association  
Australian Medicare Local Alliance  
ANTaR  
Beyondblue  
The Fred Hollows Foundation  
Heart Foundation Australia  
Menzies School of Health Research  
Oxfam Australia  
Palliative Care Australia  
Public Health Association of Australia  
The Pharmacy Guild of Australia  
Royal Australasian College of Physicians  
Royal Australian College of General Practitioners  
Professor Ian Ring (expert adviser)

## Appendix 2: Outline of Amartya Sen's Capabilities Framework and how it may apply to addressing Aboriginal and Torres Strait Islander disadvantage.

Amartya Sen's Capabilities Framework suggests an approach which incorporates rights and the development of outcome indicators *with* Aboriginal and Torres Strait Islander peoples. This would produce outcome measures that are sensitive to context and local aspirations. The approach also highlights the problem of the comparative and demographic approaches which are based on perceived community deficits and ignore the invaded context of Aboriginal communities.

Sen describes 'functionings' as consisting of "beings and doings".<sup>xxvii</sup> Living is seen as a set of interrelated functionings. Functionings are the states and activities that constitute a person's being, for example, basic states such as being healthy, having a good job, and being safe, and more complex states, such as being happy, having self-respect, and being calm. Sen contends that functionings are crucial to the capability approach; capability is conceptualized as a reflection of the freedom to achieve valuable functionings.<sup>xxviii</sup>

Functionings are the subjects of capabilities: what we are capable, want to be capable, or should be capable to be and/or do. Therefore, a person's chosen combination of functionings, what they are and do, is part of their overall capability set. However, functionings can be conceptualized in a way that signifies an individual's aspirations as well as capabilities. Eating, starving, and fasting would all be considered functionings, but the functioning of fasting differs significantly from that of starving because fasting, unlike starving, involves a choice and is understood as choosing to starve despite the presence of other options.<sup>xxix</sup> Consequently, an understanding of what constitutes functionings is inherently tied together with an understanding of capabilities.

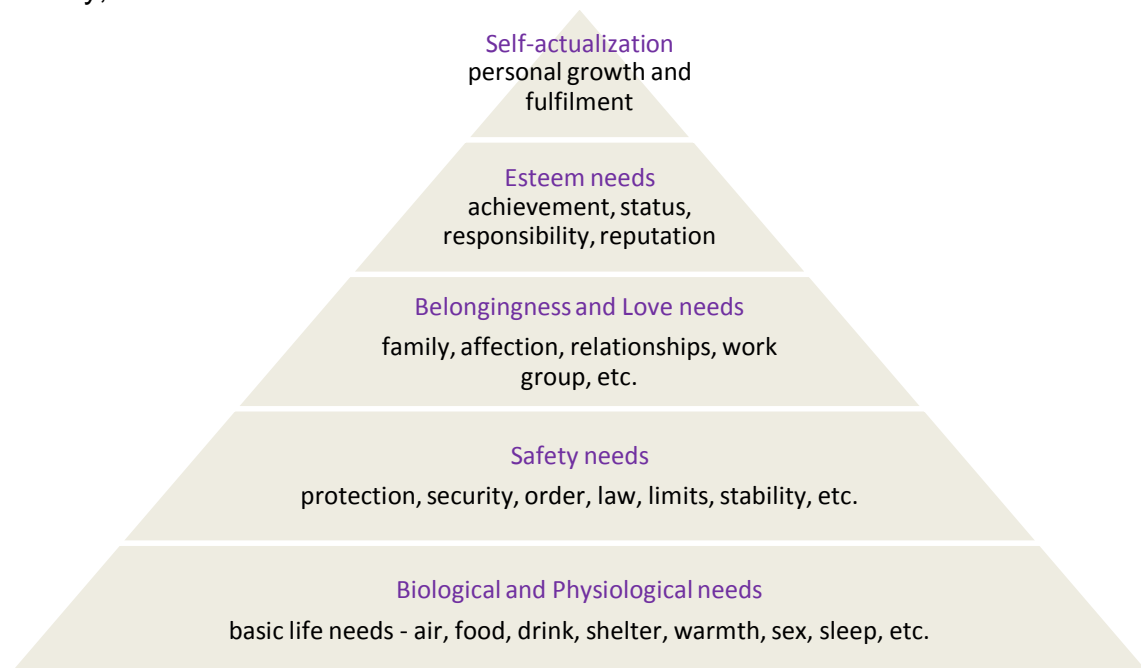
Capabilities are the functionings a person is feasibly able to achieve. Formulations of capability have two parts: functionings and opportunity freedom – the substantive freedom to pursue different functioning combinations.<sup>xxx</sup> Therefore, capabilities denote a person's opportunity and ability to generate valuable outcomes, taking into account relevant personal characteristics and external factors. The important part of this definition is the "freedom to achieve".<sup>xxxi</sup> Consequently, the capability set is not merely concerned with achievements; rather, freedom of choice, in and of itself, is of direct importance to a person's quality of life.<sup>xxxii</sup> Choosing a lifestyle is not exactly the same as having that lifestyle no matter how chosen, and a person's well being does depend on how that lifestyle came to be.<sup>xxxiii</sup> For this reason, while the combination of a person's functionings represents their actual achievements, their capability set represents their opportunity freedom – their freedom to choose between alternative functioning combinations.<sup>xxxiv</sup> In other words the reality of freedom is a key aspect of understanding capability. If racism or cultural disrespect limit freedom then its impact on capacity can be considered.

Sen defines an agent as someone who acts and brings about change, whose achievement can be evaluated in terms of his or her own values and objectives.<sup>xxxv</sup> Agency therefore focuses on the ability to personally choose the functionings one values. Agency achievement considers a person's success in terms of their pursuit

of the totality of their considered goals and objectives.<sup>xxxvi</sup> Agency primarily refers to an individual's role as a member of society, with the ability to participate in economic, social, and political actions. Agency is therefore crucial to an assessment of one's capabilities, allowing for an examination of whether or not economic, social, and/or political barriers impede a person's ability to pursue substantive freedoms. Agency stresses that participation, public debate in the public sphere, democratic practice, and empowerment, should be fostered alongside well being.<sup>xxxvii</sup> We would suggest that agency can also be considered from the perspective of marginalised communities such as Aboriginal and Torres Strait Islander communities.

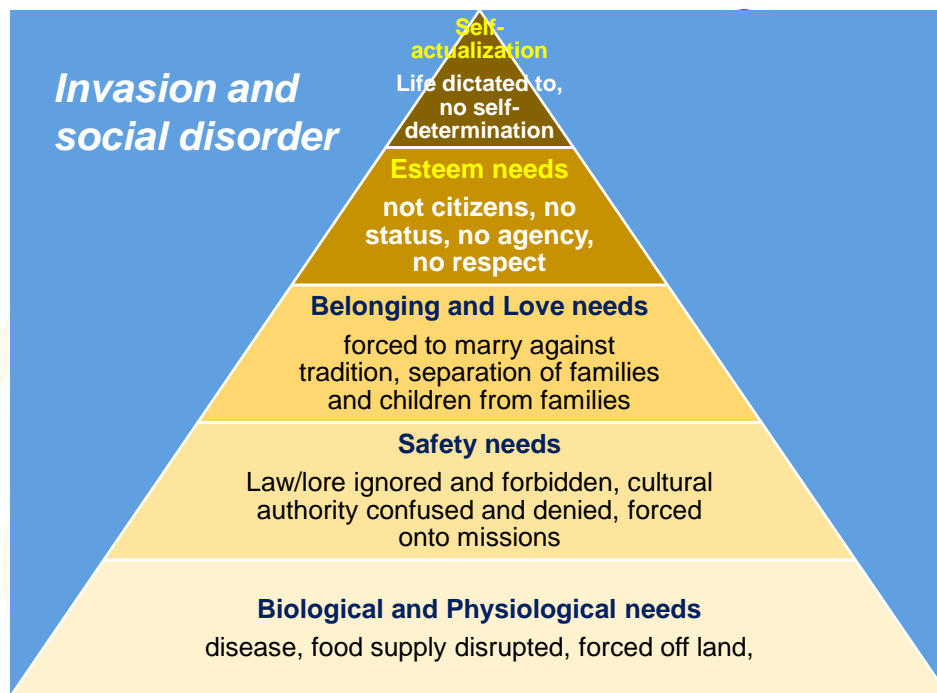
The approach emphasizes functional capabilities ("substantive freedoms", such as the ability to live to old age, engage in economic transactions, or participate in political activities); these are construed in terms of the substantive freedoms people have reason to value, instead of utility (happiness, desire-fulfillment or choice) or access to resources (income, commodities, assets). Poverty is understood as capability-deprivation. It is noteworthy that the emphasis is not only on how human beings actually function but also on their having the capability, which is a practical choice, "to achieve outcomes that they value and have reason to value".<sup>xxxviii</sup> Someone could be deprived of such capabilities in many ways, e.g. by ignorance, government oppression, lack of financial resources, or false consciousness.

The chart below based on Maslow's hierarchy of needs, demonstrates what people need to feel safe and fulfilled in society. When these needs are being met by society, its citizens are safe.



Social order – what is expressed above as safety needs – is critical so that all have their needs provided for and life is safe, predictable, stable and provided with behavioural boundaries. Social order is concerned with customs, interactions and stable institutions that are maintained overtime. Within it there is a sense of authority which is respected by the community – at least for most of the time and by most of the people. That authority is expressed according to the culture of the community.

Social order for Indigenous societies differs from social order for contemporary developed societies. If we re-visit Maslow's hierarchy of needs in the context of the invaded space in which Aboriginal and Torres Strait Islander peoples live in today it looks more like this model developed by Aboriginal researcher Richard Frankland:



With these historically driven disruptions of social order and cultural authority, homelessness, powerlessness, poverty and confusion/disorientation become structurally embedded in Aboriginal and Torres Strait Islander societies.

The second step is to build on what has remained of the cultural structures. The difficulty is when these structures and forms of cultural authority are contested as a result of the structures of invasion that have been imposed on the community. From the community wealth and sources of strength the re-creation of cultural events, rituals and healing processes for men, women, youth and children can become restorative and healing measures.

Restoring agency for Aboriginal and Torres Strait Islander communities is the key to empowerment. One of the issues when it comes to government policy is that it often operates from a deficit model and can have a sub-conscious assimilationist agenda. 'Success' is measured from a mainstream perspective and focuses on Aboriginal and Torres Strait Islander people achievement according to dominant culture definitions without any reference to Aboriginal and Torres Strait Islander aspirations. That is not to say that the aspirations are always different or that for an Aboriginal and Torres Strait Islander person to seek success in the dominant culture is a form of abandonment of culture – in fact those perspectives merely feed lateral violence. The issue at stake is who defines those aspirations and whether local individual or community aspirations are taken into account.

What is needed is the freedom for Aboriginal persons and peoples to practice their own agency in their own way rather than merely conform to an idealised, Western-defined notion of 'the happy successful person'. The real question is whether there



are societal blocks to people's self-determination, agency and "pursuit of happiness" (to borrow a phrase from the American Declaration of Independence). The role of broader society in relation to marginalised Aboriginal communities is to work with Aboriginal and Torres Strait Islander communities to remove those blocks. For example rather than blaming Aboriginal parents for their kids' truancy we should be looking at what is it about the school experience which is preventing Aboriginal and Torres Strait Islander kids to pursue their aspirations.

Without such a holistic approach our various service systems in education, health and welfare will never change and provide culturally safe experiences and enable the functionality needed for them to meet Aboriginal and Torres Strait Islander aspirations.

Restoring agency obviously also relates to restoring cultural authority and social order in Aboriginal communities and providing avenues for people to exercise their rights and responsibilities as well as self-defining their aspirations. In the community services sector, understanding the inter-relationship of these ideas will be key to developing an Aboriginal and Torres Strait Islander defined outcomes framework.

As Aboriginal lawyer and scholar, Professor Megan Davis suggests in her 2012 NAARM Oration building on the work of Sen and Nussbaum:

To explain further, utilitarian economics does not take into account the cultural pressures that affect individuals' preferences and desires in life because it assumes that people are rational agents seeking to maximise utility regardless of the pressures or norms of tradition. Thus if we do not have information about how people actually choose to live their lives then we cannot improve people's lives. An example of this utilitarian ethic in the context of Australian Aboriginal affairs can be seen in the record levels of expenditure boasted by the Commonwealth Government in Indigenous affairs in 2007. While promoting the spending as a solution to Indigenous disadvantage, the Commonwealth Government failed to measure the actual outcomes of such expenditure. In 2008, the Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma asked, 'since when did the size of input become more important than the intended outcomes?', and questioned why the record expenditure was emphasised by the Government when there was no measurement of the effects of this funding. In fact, a proportion of the record funding included Commonwealth monies expended on legal fees for farmers and pastoralists challenging Aboriginal native title claims in the court system.

This demonstrates what Sen has described as the 'informational poverty' of the utilitarian calculus in the task of understanding how people live their daily lives. An impersonal figure or amount does not tell us how the money is spent and who is actually benefiting. As an evaluative framework, capabilities theory is based on the premise that in order to live a valuable human life a person must have the freedom to make choices about how they live their life. To enjoy that freedom, one must have the capabilities in order to do and be: to work, to be healthy, to read, to care, to love, to be well fed or to have shelter.<sup>xxxix</sup>

There are critical questions we need to ask when it comes to the measuring and determining of whether trauma-informed culturally strengthening programs are

making a difference. Who is defining and doing the ‘measuring’? What are we measuring? Inputs? Outputs? Outcomes? Social impact? What if – no matter how much input is made into processes and resources for cultural safety – we cannot achieve the outcomes because of racism and the on-going structure of invasion?

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- <sup>i</sup> *Forrest Review: Creating Parity Report*, p. 4.
- <sup>ii</sup> *Forrest Review: Creating Parity Report*, p. 16.
- <sup>iii</sup> *Forrest Review: Creating Parity Report*, p. 9.
- <sup>iv</sup> *Forrest Review: Creating Parity Report*, p. 53.
- <sup>v</sup> *Forrest Review: Creating Parity Report*, pages 4, 11, 17.
- <sup>vi</sup> *Forrest Review: Creating Parity Report*, p. 18
- <sup>vii</sup> *Forrest Review: Creating Parity Report*, p. 11.
- <sup>viii</sup> *Forrest Review: Creating Parity Report*, p. 31
- <sup>ix</sup> *Forrest Review: Creating Parity Report* p. 4
- <sup>x</sup> A Sen, *Development as Freedom* (1999).
- <sup>xi</sup> *Forrest Review: Creating Parity Report*, p.4, 10, Chapter 1.
- <sup>xii</sup> *Forrest Review: Creating Parity Report*, p.4,
- <sup>xiii</sup> *Forrest Review: Creating Parity Report*, p. 7.
- <sup>xiv</sup> *Forrest Review: Creating Parity Report*, p. 7.
- <sup>xv</sup> *Forrest Review: Creating Parity Report*, p.5.
- <sup>xvi</sup> *Forrest Review: Creating Parity Report*, p. 11.
- <sup>xvii</sup> *Forrest Review: Creating Parity Report*, p. 7
- <sup>xviii</sup> *Forrest Review: Creating Parity Report*, p. 5.
- <sup>xix</sup> *Forrest Review: Creating Parity Report*, p. 197
- <sup>xx</sup> M Chino & L DeBruyn 2006, Building True Capacity: Indigenous Models for Indigenous Communities. *American Journal of Public Health*, 96(4), pp. 596-599.
- <sup>xxi</sup> *Forrest Review: Creating Parity Report*, p. 7.
- <sup>xxii</sup> The Harvard Project on American Indian Economic Development, *The State of Native Nations: Conditions under U.S. policies of self-determination*, New York, NY: Oxford University Press, 2008, pp. 111-143.
- <sup>xxiii</sup> T Calma, (Aboriginal and Torres Strait Islander Social Justice Commissioner), Social Justice Report 2005, Australian Human Rights Commission, Sydney, 2005, p.12.  
<https://www.humanrights.gov.au/publications/social-justice-report-2005-home> (Accessed 9 December 2013).
- <sup>xxiv</sup> See Oxfam Australia, Sign the Close the Gap pledge, <https://www.oxfam.org.au/my/act/sign-the-close-the-gap-pledge> (viewed 4 April 2014).
- <sup>xxv</sup> Also signed by the Hon. Nicola Roxon MP (then Minister for Health and Ageing) and the Hon. Jenny Macklin MP, the Minister for Families, Housing, Community Services and Indigenous Affairs.
- <sup>xxvi</sup> Council of Australian Governments, *National Indigenous Reform Agreement* (revised 2012), Australian Government, Canberra, 2012, pp. A-76.
- <sup>xxvii</sup> A Sen, *Inequality Reexamined* (1992).
- <sup>xxviii</sup> See above note 12.
- <sup>xxix</sup> See above note 12.
- <sup>xxx</sup> S Alkire and S Deneulin, *The Human Development and Capability Approach An Introduction to the Human Development and Capability Approach* (2009).
- <sup>xxxi</sup> See above note 12.
- <sup>xxxii</sup> See above note 12.
- <sup>xxxiii</sup> See above note 12.
- <sup>xxxiv</sup> See above note 8.
- <sup>xxxv</sup> See above note 8.
- <sup>xxxvi</sup> See above note 8.
- <sup>xxxvii</sup> S Alkire, *Capability and Functionings: Definition & Justification* (2005).
- <sup>xxxviii</sup> See above note 8, p.291
- <sup>xxxix</sup> Megan Evans, “2012 NAARM Oration” (2012) 16(1) *Australian Indigenous Law Review* 77.