

STRONGER FUTURES AND RELATED LEGISLATION
Submission to Senate Community Affairs Committee

January 27th 2012

To: Senate Standing Committees on Community Affairs

Re: Stronger Futures in the NT Bill 2011 and two related bills.

Dear Committee Secretary,

The Yearly Meeting First Nations People Concerns Committee (YMFNPCC) of the Religious Society of Friends (Quakers) in Australia welcomes this Senates inquiry and acknowledges the commitment and genuine desire by all Parliamentarians to address the on-going pain and suffering experienced by Aboriginal People within the Northern Territory resulting from past Governmental policies.

Background

The Committee welcomed the Government's commitment to closing the gap on Indigenous health, its signing of the United Nations Declaration on the Rights of Indigenous Peoples and its commitment to increase consultation with affected Aboriginal communities. It also welcomed the Minister's commitment to use an evidence based approach when assessing the success of government policies designed to assist the most marginalised people in Australia.

The committee is therefore disappointed to discover upon reading the proposed Bills that the Bills fail to live up to these stated ideals.

The Inquiry.

The legislation that is the subject of this Inquiry is the latest in a series of responses by the present Government to the events that have followed the Northern Territory Emergency Response (NTER) – commonly called the Intervention – put in place by the Howard Government in 2007 as a result of reports of child abuse and violence in Aboriginal communities. In this submission the Committee wishes to make some general points about the legislation in the context of government policy as it has developed since the Intervention began, and to offer some specific proposals for consideration.

The Legislation.

The overall impression created by the new legislation – the Stronger Futures in Northern Territory Bill 2011, the Consequential Transitional Provisions Bill 2011, and the Social Security Legislation Amendment Bill 2011– is of a tightening of controls and sanctions on Aboriginal communities, following reviews and consultations during 2011.

This is disappointing and it appears to reflect a tendency within government that the use of punishment needs to become more frequent. Going further along a track that has not been demonstrably successful is hardly a recipe for good outcomes.

Aboriginal Opinion.

On numerous occasions since 2007, Aboriginal representatives in the Northern Territory and elsewhere have expressed increasing frustration that governments are not listening to their voices. This is despite an ongoing series of consultation processes initiated by the Federal Government and Northern Territory Government. For example, the *Concerned Australians* group has analysed closely the reports of the consultations held in NT communities during 2011 and shown that a number of the significant comments have been either ignored or given low priority in official reports of those meetings. Specific examples are a Strong support was expressed for the resumption of bilingual education; there was a clear desire for more Aboriginal and full time teachers in remote communities; and there were no requests for welfare cuts or fines to 'achieve' school attendance.

Self-Determination.

Despite all the stated commitments to this principle, including in the UN Declaration on the Rights of Indigenous Peoples, there seems to be a move away from self-determination in government policies in Australia. The latest legislation puts more pressure on Aboriginal parents and communities to observe strict conditions for ensuring school attendance, preventing alcohol access, achieving food security as defined by governments, and negotiating on land rights. It seems to give less attention to supporting Aboriginal initiatives, of which there are many, in communities.

Practical Support.

Among the practical steps that have been proposed by Aboriginal leaders and communities are

- (a) Better transport for communities;
- (b) More involvement of parents;
- (c) Funding for night patrols;
- (d) Greater funding support for remote communities;
- (e) More relevant curriculum content that recognises Aboriginal culture
- (f) Restoration of bilingual education;
- (g) Longer-term placements of teachers and support staff.

Respect.

Perhaps the most discouraging aspect of the way the Federal and NT Governments have approached the situation is their unwillingness or inability to come to grips with the cultural imperatives of Australian Indigenous peoples.

Time and again it seems that policies are built upon 'expert' advice from people who have limited grasp of Indigenous perspectives or who see mainstream values as the overwhelming priority. It is little wonder that Indigenous responses are wary and that the issue of sovereignty and a treaty keeps emerging.

We are reminded of the words of James Anaya, the UN Special Rapporteur, in his 2009 report:

I am concerned that there is a need to incorporate into government programmes a more holistic approach to addressing indigenous disadvantage across the country, one that is compatible with the objective of the United Nations Declaration of securing for indigenous peoples, not just social and economic wellbeing, but also the integrity of indigenous communities and cultures, and their self-determination.

This approach must involve a real partnership between the Government and the indigenous peoples of Australia, to move towards a future, as described by Prime Minister Rudd in his apology to indigenous peoples last year, that is "based on mutual respect, mutual resolve and mutual responsibility," and that is also fully respectful of the rights of Aboriginal and Torres Strait Islander peoples to maintain their distinct cultural identities, languages, and connections with traditional lands, and to be in control of their own destinies under conditions of equality.

Given what I have learned thus far, it would seem to me that the objectives of the closing the gap campaign, the Emergency Response, and other current initiatives and proposed efforts of the Government will be best achieved in partnership with indigenous peoples' own institutions and decision-making bodies, which are those that are most familiar with the local situations. It is worth stressing that during my visit, I have observed numerous successful indigenous programmes already in place to address issues of alcoholism, domestic violence, health, education, and other areas of concern, in ways that are culturally appropriate and adapted to local needs, and these efforts need to be included in and supported by the Government response, both logistically and financially. In particular, it is essential to provide continued funding to programs that have already demonstrated achievements.

SEAM

This pursuit of SEAM and compulsory income management also contradicts the Australian Governments' own Social Inclusion principles, namely the principle of evidence based and strengths based approaches to policy and program development. We are concerned that;

1) That SEAM and income management programs have been expanded before thorough evaluations were finished and made available to the public which calls into question the commitment to evidence based policy making.

2) This legislation paves the way for unlimited expansion of these unproven and expensive programs by legislative instrument without undergoing the usual parliamentary scrutiny.

3) The Stronger Futures Consultation Report quotes community members' alternative suggestions for how to improve school enrolment and attendance. However it is only the most punitive solution that has been taken seriously, making a mockery of the social inclusion principles of using a "strength based approach" and the commitment to genuine engagement with communities.

4) There is no process to enable people to appeal referral decisions made by external referring agencies. This issue has not been clarified with the existing child protection measure and is likely to become a problem with additional referral agencies.

5) Wherever consultation is written into the legislation as a requirement it is immediately written out- it is required, but not required. This is not conducive to building trust between government and local communities.

Evidence

Compulsory Income Management has been expanded without evidence to suggest it achieves its stated aims. To date there has not been a rigorous, independent evaluation of compulsory income management¹. We need not repeat our concerns about compulsory income management here. Please refer to past submissions.

Prior to the commencement of the 2009 SEAM program, the senate committee inquiry into the Social Security and Veteran's Legislation Amendment (School Requirements) Bill emphasised that

"...the outcomes of the pilot and subsequent evaluation must provide the basis for any further roll-out of the measures proposed in the Bill.

However, the expansion of SEAM was announced before the final evaluation of the 2010 model was completed. The results of the evaluation of the 2009 model concluded that *SEAM did not demonstrably improve the rate of attendance among SEAM children overall, nor was any effect apparent at any stage of the attendance process in 2009* ². The report contained only early data of the 2010 model.

Evaluations of comparable programs internationally are mixed but the literature tends to suggest that well designed, targeted and incentive based programs work significantly better than sanction based programs³.

· There is a considerable body of evidence to support the contention that community led, community owned solutions to local problems are generally the ones that work⁴ .

The ideological commitment to punitive programs that use poverty as a 'policy lever to achieve behavioural change' is not only unprincipled, it is irrational in light of established social facts.

1 For a review of the evidence see Cox, E. 'Evidence-free policy Making: The Case of Income Management' *Journal of Indigenous Policy – Issue 12 (Sept 2011)*. University of Technology Sydney.

2 Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM) Evaluation Report for the NT in 2009, (Jan 2011)

3 Conditionality and behaviour change *Social Inclusion Board Slide Deck*. Attached.

4 Place Based Approaches to Supporting Children and Families *Policy Brief* issue 23> 2011. Murdoch Childrens' Research Institute, Royal Childrens' Hospital Melbourne.

Vinson T. Markedly Socially Disadvantaged Localities in Australia. Canberra ACT. Department of Education, Employment and Workplace Relations.

SEAM Alternatives

Improving the education outcomes for children and young people in remote communities is unarguably a crucial factor in improving their long term health and wellbeing and that of their communities. We respect the fact that the Government has prioritised this issue and has committed resources to this end. There is a solid evidence base to support the assertion that community ownership of programs to address community problems is crucial to their success and that genuine consultation and participation in the development of social policy and programs is a must. This is not simply an ideological or principled point of view it is a *social fact*.

Notwithstanding other concerns about the Stronger Futures Consultation report, the report suggests that people attending the consultations had a range of ideas for how schools attendance could be improved and raised a number of issues that have direct impact upon school attendance. We were disappointed to see that of these proposed solutions, only one- the most punitive - was taken up.

Alternative measures cited in the report included-

- Development of programs to get elders to help parents get kids to school
- Return of bilingual education
- More language and culture in schooling,
- using local elders to teach culture in schools
- homework centre in community where parents could help out at the centre
- football programs
- linking excursion and incentives to attendance
- Full time parent liaison officers
- More teachers and qualified youth workers to work in community to develop quality programs for young people
- Community activities to bring children and parents together
- Local qualified teachers given preference over teachers from elsewhere
- Recruiting local people into teaching profession
- Specialised teacher training to work in Indigenous communities
- Get teachers to do specific training about the community and local culture
- Have the community involved in the process of hiring teachers
- Parent support groups
- School council
- Improvements to early childhood education
- mobile preschool
- community childcare
- community bus to get little ones into early education
- engage fathers in schools

This list is taken from the report. The report may not have included everything that was said in all of the consultations. It is important to note that these ideas were generated in the context of one off consultation sessions that covered 8 different areas. It is likely that focused exploration with local communities would yield a range of innovative program ideas.

The Stronger Futures Consultation Report also included a number references to local programs that work, or *were* working. There is not a shortage of solutions and innovative ways of addressing school attendance.

We note the announcement of the Connected Communities program and look forward to reading the forthcoming discussion paper. Connected Communities may be a positive move towards community integrated schooling.

Income Management external referral agencies

Given that this legislation would make it possible for virtually any state agencies to become external referral agencies we recommend that a process for the appeal of referral decisions needs to be clearly established.

Parliamentary Process and Expansion

This legislation enables the further expansion of these programs to new areas, and the addition of external referral agencies to income management measure by way of legislative instrument. We are concerned that these decisions will not be held up to appropriate level of parliamentary and public scrutiny. It is alarming that this legislation enables the Minister significant legislative changes by way of legislative instrument without parliamentary scrutiny or any requirement for consultation with stakeholders.

Consultation and Trust

There is a bizarre recurring motif in this legislation concerning consultation. On the one hand, the legislation requires that consultation occurs before a decision regarding (x) can be made. On the other hand, if consultation does *not* occur, it does not invalidate the decision [e.g Subclause 34(8) and (9); 35 (4) and 35 (5); 41(2) and 41(3)] The government cannot honestly expect people to engage productively in consultations in the context of this kind of double speak.

Building productive, solutions oriented relationships between communities and government has been a stated aim of the Government. We take this opportunity to reflect on the Hon Jenny Macklin's own words in her 2009/10 budget Ministerial Statement on Resetting the Relationship-

*"The Australian Government's bold reform agenda in Indigenous affairs is underpinned by our determination to forge a new relationship with Indigenous Australians based on **trust and respect.**"*

Conclusion/Recommendation.

The current legislation continues the pattern of Government failure to live up to the hopes created through the National Apology. It is likely to exacerbate the frustration of many Aboriginal people in the Northern Territory about the way their views have been ignored. It is doubtful that it will achieve the aims of increasing school attendance, preventing violence and increasing security for Aboriginal communities. We consider that more fundamental questions will need to be addressed about how best

to listen to Indigenous insights about needs and services and how to provide an effective basis for self-determination.

We recommend that the legislation be withdrawn pending further examination of how the current policies are affecting Aboriginal people. We support the proposal by Digby Habel in a separate submission that the Government should initiate a plebiscite to determine whether Aboriginal people in the Northern Territory agree to live under special measures that discriminate against them.

We ask that the government adhere to the UN conventions it is a signatory too, namely the UN Declaration on Human Rights and the Rights of Indigenous Peoples. To fulfill its stated commitment to increase consultation with affected Aboriginal communities and the Minister's commitment to use an evidence based approach when assessing the success of government policies designed to assist the most marginalised people in Australia.

Yours respectfully,

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Australian Yearly Meeting First Nations People Concerns Committee (AYMFNPCC) of the Religious Society of Friends (Quakers) in Australia

References:

Concerned Australians website – www.concernedaustralians.com.au

Statement of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, as he concluded his visit to Australia. Canberra/Geneva, 27 August 2009