

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN HUMAN RIGHTS COMMISSION

Question No. 83

Senator Siewert asked the following question at the hearing on 16 October 2012:

NT Government has suggested that it will remove of alcohol restrictions on communities – what is the Commissioners view of any decision to undertake this move without consultation with the affected communities? What are the options for the communities to appeal against any such decision?

The answer to the honourable senator’s question is as follows:

The Commission supports the introduction of alcohol restrictions to address the impact of alcohol abuse within communities where such restrictions have community support.¹ As such, the Commission does not support the removal of alcohol restrictions on Aboriginal communities in the Northern Territory, particularly where Aboriginal and Torres Strait Islander peoples who live in those communities have not been involved in the decision.

The Stronger Futures legislation provides for the development of alcohol management plans in the Northern Territory, based on consultation with and input from Aboriginal and Torres Strait Islander peoples and their organisations; and the Northern Territory Government.

In its submission to the Senate Community Affairs Legislation Committee in the Inquiry into the Stronger Futures in the Northern Territory Bill 2011 and two related Bills, the Commission noted that:

- protecting individuals from alcohol-fuelled violence is a legitimate goal and is consistent with the right to security of person and protection by the State against bodily harm’ under Article 5(b) of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD)
- community control, adequate resourcing and comprehensive interventions are all key factors that facilitate effective alcohol abuse services and harm reduction strategies. Evidence indicates that interventions imposed without community control or culturally appropriate adaption and which stigmatise alcohol users do not work and can be counter-productive
- a substantial focus of the Government should be on transitioning communities to locally developed alcohol management plans.

The Commission specifically highlighted article 19 of the Declaration on the Rights of Indigenous Peoples. It asserts that:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

¹ For more information on the community led alcohol restrictions in the Fitzroy Valley see M Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2010*, Australian Human Rights Commission (2011), ch 3. At http://www.humanrights.gov.au/social_justice/sj_report/sjreport10/index.html (viewed 16 December 2011).

The development of approaches to manage alcohol and its devastating effects on Aboriginal and Torres Strait Islander communities must be designed, developed, and implemented in partnership with Aboriginal and Torres Strait Islander peoples and their communities.

The Stronger Futures legislation stipulates in three provisions that relate to the management of alcohol that consultation should occur.

1. The Northern Territory Licencing Commission is to have regard to ‘the circumstances and views of people who are living in the area’ about whether alcohol restriction signage is erected and in what form.²
2. Communities must have consulted sufficiently about an alcohol management plan before it will be approved by the Minister.³
3. A community consultation process is required in relation to the rules prescribing areas as alcohol protected areas.⁴

In conclusion, while the Commission agrees that any management of alcohol in Aboriginal communities must be supported by programs including rehabilitation, it does not agree that the Northern Territory Governments move to remove altogether alcohol restrictions without the informed consent of Aboriginal and Torres Strait Islander peoples living in those communities is an appropriate response.

With regard to the question concerning the communities’ options for appeal against this decision, this question is better directed to the Department of Families, Housing, Community Services and Indigenous Affairs.

² *Stronger Futures in the Northern Territory Act 2012* (Cth), Div 4 s 14(5), (6).

³ *Stronger Futures in the Northern Territory Act 2012* (Cth), s 17(6).

⁴ *Stronger Futures in the Northern Territory Act 2012* (Cth), s 27(6).