

Senate Community Affairs Legislation Committee
Inquiry into Welfare Reform and Reinstatement of the Racial Discrimination Act
Canberra Hearing, Friday 26 February 2010

ANSWERS TO QUESTIONS ON NOTICE

Question No: WR33

Topic: Customary law

Hansard Page: Written

Senator Moore (Chair) asked:

The Committee heard concerns from several organisations, including the Law Council of Australia, the North Australian Aboriginal Justice Agency, the Central Australian Aboriginal Legal Aid Service and the Central Land Council, that the proposed legislation did not include any amendment of sections 90 & 91 of the *Northern Territory National Emergency Response Act 2007* which excluded the consideration of customary law or traditional practices in bail and sentencing decisions. Please provide a response as to why the proposed legislation does not seek to amend this NTER measure.

Answer:

The bail and sentencing provisions in Part 6 of the *Northern Territory National Emergency Response Act* are not subject to the provisions that suspend the operation of the *Racial Discrimination Act 1975* (RDA). Rather, they apply in relation to all bail and sentencing decisions made under Northern Territory legislation, regardless of the defendant's race.

The provisions have been reviewed separately by the Attorney-General's Department and a report provided to the Attorney-General and the Minister for Home Affairs on 12 November 2009. There is little evidence available at this stage about the impacts of the provisions. The Attorney-General and Minister for Home Affairs have therefore decided to monitor the provisions for a further 12 months before deciding whether legislative reform is required.