

## **SUBMISSION TO**

### **The Senate Select Committee Inquiry:**

**(a) Inquiry into Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and the**

**(b) Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 along with the**

**(c) Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009**

**Submitted by**

**‘concerned Australians’**

**c/o Michele Harris**

**‘concerned Australians’ represent thousands of Australians from all walks of life - individuals, social justice and community groups that link together across the country to speak out about human rights issues and social justice issues.**

**‘concerned Australians’ wish to thank the Government for providing the opportunity to make comment through the senate select inquiry process. However, it should be noted at the commencement of this submission that ‘concerned Australians’ is very disappointed that the closing date for submissions has been set before the release of the report from Professor James Anaya, UN Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous Peoples. It is our understanding that the report could probably be made public by mid-February.**

**‘concerned Australians’ have been calling for the reinstatement of the RDA in the NT since 21 June, 2007 and we welcome the Government’s intention to reinstate the Act. We also acknowledge the Government’s intention to address major problems in the areas of health, rehabilitation, education and housing that have resulted from the decades of neglect by all governments. However we strongly believe that the Government is mistaken in its approach to creating change. There appears to be a total failure to recognise that change can only be brought about by engaging directly with Aboriginal people rather than disempowering them, as is currently happening.**

**Rosalia Kunoth Monks from Arlparra/Utopia, during the consultations in 2009, clearly stated,**

“We feel, here, that the intervention offers us absolutely nothing, except to compound the feeling of being second-class citizens ... we are still reeling from the way the Federal Government wheeled out, or dealt out, the intervention, in a military fashion when Major Chalmers sent out the army, in uniform...” August’09

**The Government’s failure to engage with Aboriginal communities has been highlighted numerous times over the past two years and by many. The National Aboriginal and Torres Strait Islander Ecumenical Commission, (NATSIEC) report stated,**

“The Intervention was implemented without consultation with Aboriginal Peoples and Government continues to fail to listen with respect and in a manner which is culturally appropriate. Further, we do not believe that ‘consultation’ will lead to just and right outcomes for Aboriginal Peoples in the Northern Territory or elsewhere. Rather, we assert the right of Aboriginal Peoples to negotiate agreements as equal partners who have the right to make their own decisions.”<sup>1</sup> June’09

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<sup>1</sup> NATSIEC forum statement available at:  
[http://www.ncca.org.au/files/Natsiec/NATSIEC\\_FORUM\\_NTER\\_Statement.pdf](http://www.ncca.org.au/files/Natsiec/NATSIEC_FORUM_NTER_Statement.pdf)

**And more recently during the Tier two consultations held in Yirrkala, the Laynhapuy Homelands Mala Leaders made the following statement,**

“We should not be subjected to special measures that separate us out or impose things on us without agreement. Our responses to your questions in this consultation must not be used by the Australian Government to argue for the continuation of the NTER Intervention or justify what has been done to date. We want this statement to be recorded in full and given to the Australian Government.”<sup>2</sup>

**The importance of engaging with Aboriginal people is critical to creating change and further more it is the government’s responsibility to ensure that Aboriginal people have the right to self determination and cultural integrity,**

“I hope that amendments to the Emergency Response will diminish or remove its discriminatory aspects and adequately take into account the rights of aboriginal peoples to self determination and culture integrity, in order to bring this Government initiative in line with Australia’s international obligations.” Professor James Anaya, UN Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people.<sup>3</sup> August ‘09

**The Government rejected key findings of the Peter Yu Oct ’08 report, *Northern Territory Emergency Response: Report of the NTER Review Board*, and moved to conduct consultations at individual, community and regional levels across the Northern Territory between June and August 2009. Reports from these consultations were not made available through the Departmental website, and many within the communities themselves have had difficulty in accessing them. Issues of transparency were, and are, of considerable concern.**

**Lack of Transparency**

**Public statements by the Minister have led us to believe that there is general support from Aboriginal people in the prescribed areas for Income Management. This, however, is not borne out in the government reports of the regional meetings held across the Territory.**

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<sup>2</sup> “*Will They Be Heard?*” report (WTBH) . see WTBH , no.169, p 34.

Appendix 1: WTBH Attached as pdf Document. Copy also available at SPC link:  
<http://www.socialpolicyconnections.com.au/Portals/3/docs/wil%20they%20be%20heard%20report%20nov%202009.pdf>

Hard copy has been sent to the inquiry.

<sup>3</sup> Full statement available at <http://www.un.org.au/files/files/Press%20Release%20-%20Australia%20JA%20final.pdf>

Quotes directly from summaries in the reports of the five FaHCSIA regional, Tier 3, community meetings are as follows,

**Alice Springs Region**, *“Participants noted the Government’s position on Income Management (IM). There was recognition by many that there had been some benefits to communities as a result of the measure, but, overall, participants did not support either of the options in the Discussion Paper.”*<sup>4</sup>

There was support for a voluntary IM with triggers for ‘unacceptable behaviours’. These same sentiments were also expressed in each of the other four regional reports. Also common to all five reports are acknowledgements of some benefits from IM. The benefits, however, did not override the rejection of IM in its current form.

**Tennant Creek Region**, *“Participants acknowledged that there had been some positive benefits from IM. However, did not support either of the compulsory options outlined in the Discussion Paper.”*

**Nhulunbuy Region**, *“Participants noted but did not support either of the compulsory IM models proposed in the NTER Future Directions Discussion Paper. They recognised there had been benefits from having IM in their communities, however, they viewed the measures as discriminatory and condescending.”*

There is some confusion in the paragraph that follows, *“.....IM should be applied to young people with school aged children and that people over 45 years who did not have dependents, should be exempt.”*

**Darwin Region** *“Participants noted, but did not support the either of the compulsory IM models proposed in the NTER Future Directions Discussion Paper. Many recognised there had been benefits to people in prescribed communities as a result of IM. However there was strong opposition to the measure continuing in its current form on the grounds that it discriminated against Aboriginal people.”*

**Katherine Region**, *“Participants noted, but did not support the two IM options in the Discussion Paper. There was strong opposition to the measure continuing in its current form.”*

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<sup>4</sup> In hard copy of WTBH report, see Alice Springs Tier 3, Attachment B, IM p 3 or

Appendix 2- see pdf Alice springs Tier 3 , Attachment B, IM, p 3

<http://www.socialpolicyconnections.com.au/Portals/3/docs/wil%20they%20be%20heard%20report%20nov%2009.pdf> pdf copy, p 218

**The FaHCSIA consultants *Cultural & Indigenous Research Centre Australia (CIRCA)* state in their report, “A few (government) reports did not clearly indicate the extent of the negativity towards income management that CIRCA consultants observed in the meetings. Linked to this, in a few reports the preference for the opt-out option was implied, whereas our interpretation of the feedback from the meetings is that the decision to be on Income Management should be left to the individuals.”**

**These excerpts from Government regional reports strongly back the findings of the “*Will They Be Heard*” report, which used both video footage and Government Tier 2 and Tier 3 reports to reach its conclusions. All five reports are appendices to the “*Will They Be Heard*” report and are attached to this submission. (Appendix 2) <sup>5</sup> In the Minister’s press release of 23 November she states, “*People identified income management was delivering benefits, particularly to children, women and the elderly. The benefits included more money being spent on food, clothing and school-related expenses, and assisting with saving for large purchases, such as fridges and washing machines.*”**

**However, it is concerning that there is no reference to the much longer lists of disadvantages of income management reported by communities and recorded in the Government reports, and even more concerning that there is no reference to the NTER Regional Meetings summaries as quoted above.**

**Such variations in the presentation of information do little to encourage trust. The failure to provide interpreters for many of the consultations has been the source of major concern. The much cited *Future Directions Discussion Paper for the NTER*, (NTER Consultation Process) states the tier 2 community workshops**

**“... will be delivered by ICC senior officers with the aid of the Aboriginal Interpreter Service in the Northern Territory.” <sup>6</sup>**

**The Minister has since advised that more than one-third of the Tier 2 Community Workshops were conducted without interpreters. This is highly disturbing. In support of that statement, CIRCA attended 15 Tier 2 meetings and found interpreters at only 9. This could mean that anywhere up to 40% of Aboriginal**

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<sup>5</sup> Appendix 2. NTER Future Directions Tier 3 Regional Workshop. Attachment B, The Measures, under IM. Note Tennant Creek (TC) Tier 3 is not marked as attachment B & comes after ‘General comments’, p 4.

**For hard copy *WTBH* go to: NTER Tier 3 consultation, Tennant Creek. p 4**

**In *WTBH*, SPC pdf link,**

**<http://www.socialpolicyconnections.com.au/Portals/3/docs/wil%20they%20be%20heard%20report%20nov%2009.pdf> p 203**

<sup>6</sup> ICC Indigenous Coordination Centre (ICC). Appendix 3, refer Tier 2 , p 2 of 4

people who attended their own community meetings may have had a very limited understanding of their content and possibly no understanding at all.

### **Evidenced - Based Policy**

*Labor will take an evidence-based approach to improve the social, cultural and economic well-being of Indigenous Australians.*<sup>7</sup>

**This is what we are told but what evidence do we have that this is the case? With Income Management for example, we are constantly being informed that Aboriginal children are eating more food, healthier food. The ‘evidence’ for this is provided through the stores licensing monitoring program, whereby surveys are conducted at regular intervals by telephone interviews, of 10 to 45 minutes duration, with store operators.**<sup>8</sup>

**While it is interesting to obtain the views of store operators, the conclusions being drawn from them are easily misinterpreted as ‘facts’ about the outcomes of the program itself. More relevant would have been the views of the community members. The first question asks the opinion of store owners on ‘the overall impact of income management on the community’. Naturally, store operators have a positive view of the impact of IM on the community. The store operators are business people, not welfare personnel. Good practice dictates that they make profit. With IM they have a captive market which automatically increases the operator margins. In almost all cases these store businesses are without competition. The result is state issued monopolies. As far as ‘evidence’ is concerned, the failure to validate information/opinion with independent evidence renders the survey information as being without credibility.**

**Even within the August ’09 report on the *Evaluation of Income Management in the Northern Territory* conducted by the Australian Institute of Health and Welfare, (AIHW), concern is expressed regarding the quality of the research material provided by FaHCSIA.**

“The strength of the research evidence is however constrained by the methodology used and the quality of the research. The types of studies used for the evaluation do not rank highly on standard evidence hierarchies and there were some issues with their quality. The evidence available for the evaluation was therefore not strong... The evaluation was very dependent on the views and perceptions of stakeholders about the outcomes of income management. But this type of information is subject to recall bias and is not always reliable.... Stronger evidence would also be provided by a larger client survey

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<sup>7</sup> One of the ALP’s *guiding principles* for the relationships between Aboriginal Australians and Government.

<sup>8</sup> *Second Stores Post Licensing Monitoring Report 2008*”, FaHCSIA

where participants are randomly selected for interview to ensure that they are representative of all community members.”AIHW

**The reliability of conclusions that have been drawn from a survey of only 76 individuals across four communities is questionable. Furthermore, AIHW advised that participants were not randomly selected and in some locations Government Business Managers assisted in recruiting participants to the survey. These factors only reinforce concerns regarding the inadequacy of the methodologies by which the survey was conducted. But the greatest concern of all is that FaHCSIA has been prepared to use such substandard approaches to assessment of programs on which it would attempt to justify its policies. To present such poorly acquired data as some form of ‘evidence’ is disheartening at best and, at worst, borders on the dishonest.**

**In the light of the above, the government’s failure to pay great attention to genuine information based on personal experiences provided through the three month long consultation process is simply unforgivable,**

“And nobody has taken time off from this crazy cash cow, which is the intervention, to come and listen to us. Listen to old women like me and listen to these wise men.”  
Arlparra/ Utopia community resident.

#### **New legislation currently before Parliament**

**It seems clear that the visit of UN Rapporteur, Professor James Anaya, to Australia last year, has forced the government to review the NTER legislation in order to facilitate the reinstatement of the Racial Discrimination Act in the Northern Territory. This move is basic to Australia being able to fulfill her international obligations. However, to date, the lack of transparency and the failure to produce real evidence regarding the effectiveness of current programs leads one to believe that there will be little real attempt in the current exercise to do more than to manipulate legislation to ensure the continuation of current policies.**

**Alastair Nicholson, former Chief Justice of the Family Court and a ‘concerned Australian’, has studied the proposed legislation and below is his comment written on 6 January this year. The full document is attached as Appendix 4.**

“In this document I have largely concentrated upon the income management measures, but it is worth noting that many other objectionable features of the NTER have not been addressed by the Government, nor were they addressed during the so-called ‘consultations’ by the Government with the Aboriginal communities. One obvious one is the differential treatment of Indigenous persons as to sentencing and bail applications with respect to issues of customary law which is obviously discriminatory.

In considering the Bill it is necessary to pay some regard to historical issues.

I refer first to some of the relevant provisions of the *Racial Discrimination Act 1975*.

S 9 of that act provides:

***“(1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.”***

S 10 provides:

***(1) If, by reason of, or of a provision of, a law of the Commonwealth or of a State or Territory, persons of a particular race, colour or national or ethnic origin do not enjoy a right that is enjoyed by persons of another race, colour or national or ethnic origin, or enjoy a right to a more limited extent than persons of another race, colour or national or ethnic origin, then, notwithstanding anything in that law, persons of the first-mentioned race, colour or national or ethnic origin shall, by force of this section, enjoy that right to the same extent as persons of that other race, colour or national or ethnic origin.***

Article 1, Para 4 of the International [Convention](#) on the Elimination of All Forms of Racial Discrimination, which appears as a Schedule to the Act and upon which the Act is based and which is incorporated into domestic law provides:

***“Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.”***

Article 2.2 provides:

***“States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.”***

The relationship between special measures, including these two Articles and the RDA is fully discussed in “Will they be heard?”<sup>[1]</sup> As was there pointed out, one of the characteristics of special measures is that they are designed and implemented on the basis of *prior consultation* with affected communities and the active participation of such communities and may, if they have a potentially negative effect, only be special measures if enacted with the consent of the affected people.<sup>[2]</sup>

It is apparent that these provisions of the RDA and the requirements associated with special measures presented great difficulties to the Howard Government’s NTER



proposals in 2007 and I now turn to the legislation that put the emergency response into effect.

***The Northern Territory National Emergency Response Act 2007; The Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007; The Social Services and Other Legislation Amendment (Welfare Payment Reform) Act 2007***

It was apparent to those advising the then Government that this legislation could not sit comfortably with the RDA because it clearly did involve racial discrimination against Aboriginal people in a number of ways too numerous to set out here but including the so called Income Management Regime.

It therefore became necessary to nullify the provisions of the RDA so far as those subject to that legislation were concerned and this was done, with the support of the then Opposition.

Ss 132 and 133 of the NTER Act provided as follows:

S 132

***“Racial Discrimination Act***

***(1) The provisions of this Act, and any acts done under or for the purposes of those provisions, are, for the purposes of the [Racial Discrimination Act 1975](#), special measures.***

***(2) The provisions of this Act, and any acts done under or for the purposes of those provisions, are excluded from the operation of Part II of the [Racial Discrimination Act 1975](#).***

***(3) In this section, a reference to any acts done includes a reference to any failure to do an act.”***

S 133

***“Some Northern Territory laws excluded***

***(1) The provisions of this Act are intended to apply to the exclusion of a law of the Northern Territory that deals with discrimination so far as it would otherwise apply.***

***(2) Any acts done under or for the purposes of the provisions of this Act have effect despite any law of the Northern Territory that deals with discrimination.***

***Northern Territory laws that are not excluded***

***(3) However, subsections (1) and (2) do not apply to a law of the Northern Territory so far as the Minister determines, by legislative instrument, that the law is a law to which subsections (1) and (2) do not apply.***

***Reference to acts done includes failure to do an act.”***

***(4) In this section, a reference to any acts done includes a reference to any failure to do an act.”***

The other legislation underpinning the NTER contained similar provisions.

What is significant is that the legislation first asserted that what was being done in the NTER constituted ‘special measures’. This was untenable and it is highly unlikely that the simple assertion that the measures were special measures within the meaning of the Convention would have been upheld by a Court. To least of the problems would have been the difficulties involved in the complete lack of any consultation that accompanied the legislation either before or after it was enacted. It thus became necessary to effectively repeal the RDA in the areas affected by the NTER and this was achieved by s 132 (2). For good measure the Government simply overrode any inconsistent NT laws in s 133.

The Rudd Government’s amending Bill repeals all of these sections in an apparent attempt to indicate compliance with its election promises.<sup>[3]</sup> However, a careful examination of this legislation reveals how qualified that compliance is.

S 4 of schedule 1 of the amending Bill provides:

***“To avoid doubt:***

***(a) the repeal of sections of an Act by this Schedule does not have retrospective effect; and***

***(b) section 8 of the Acts Interpretation Act 1901 applies to the repeal (unaffected by any contrary intention)***

At first sight this appears to be unexceptionable. However what it does is to preserve the legal effect of everything that was done under the NTER legislation while protecting the Commonwealth from any claims for damages that might otherwise have arisen.

At the same time it highlights the ephemeral nature of the protection afforded by the RDA to victims of racial discrimination in Australia in that it confirms that such protection is very much in the hands of the Government of the day. This falls a long way short of the sort of constitutional guarantee that would be afforded by a Bill of Rights.

However an examination of the further provisions of the Bill reveals just how limited the effect of the so called repeal is. Nowhere is this more apparent than in the area of income protection.

### **Income Protection**

Schedule 2 of the Bill headed “Income management regime” first operates to repeal the definitions of Category A to category G welfare payments contained in s 123TC of the Social Security (Administration) Act. These categories of welfare payment commence with a definition of a Category A welfare payment as meaning:

**(a) a social security benefit; or**

**(b) a social security pension; or**

**(c) a payment under a scheme known as the ABSTUDY scheme that includes an amount identified as a living allowance.**

The remaining categories include category A welfare payments but gradually widen the nature of the payments covered to include payments to include different types of payment such as baby bonuses etc.

The Bill in s 28 inserts a new Category E welfare payment definition into s 123TC that removes any reference to Aboriginal allowances such as ABSTUDY but is defined more broadly to include:

**(a) youth allowance; or**

**(b) newstart allowance; or**

**(c) special benefit); or**

**(d) pension PP (single); or**

**(e) benefit PP (partnered)**

It repeals definitions of declared relevant, exempt and relevant Northern Territory areas from s 123 TC. Most importantly, it repeals s 123 UB of the Social Security Act which defines the persons subject to the income management regime by their presence or otherwise in relevant Northern Territory areas and s 123 UG which enabled the Secretary to declare certain people to be '**exempt Northern Territory persons**'. Various other consequential amendments are made directed at removing the association between income management and the Northern Territory in an attempt to show that the new legislation is not in form discriminatory to Aboriginal persons.

However, the real test of the sincerity (or lack of it) of this approach is to be found in the 'Saving and Transitional' provisions of the new Bill and particular in Clause 23 because, despite the repeal of s 123 UB referred to above, it is preserved with full force and effect in relation to persons who were subject to it in the NT for a further period of 12 months from the date that the Bill becomes law. For these people, who include most of the Aboriginal population of the NT it is as if the repeal of the RDA has never happened.

Presumably the Government would seek to rely upon its so-called consultations with the people to justify this as a 'special measure' or alternatively will make a new declaration under the amended legislation to operate from the end of the 12 month transition period to continue with income management in those areas, relying upon the same 'consultations'. We thus have the ironic situation that the very Act that purports to end racial discrimination and restore the RDA in fact perpetuates the discrimination that the original NTER legislation was designed to effect.

## **New Income Management Measures**

These are contained in part 2 of the Bill.

Clause 25 repeals paragraphs (a) to (f) of original s 123TA in the Social Security (Administration) Act which set out the criteria for a person becoming subject to the income management regime. These were:

- *A person may become subject to the income management regime because:*
  - (a) *the person lives in a declared relevant Northern Territory area; or*
  - (b) *a child protection officer of a State or Territory requires the person to be subject to the income management regime; or*
  - (c) *the person, or the person's partner, has a child who does not meet school enrolment requirements; or*
  - (d) *the person, or the person's partner, has a child who has unsatisfactory school attendance; or*
  - (e) *the Queensland Commission requires the person to be subject to the income management regime; or*
  - (f) *the person voluntarily agrees to be subject to the income management regime.*

The new criteria are as follows:

- (a) *A child protection officer of a State or Territory requires the person to be subject to the income management regime; or*
- (b) *the Secretary has determined that the person is a vulnerable welfare payment recipient; or*
- (c) *the person meets the criteria relating to disengaged youth; or*
- (d) *the person meets the criteria relating to long-term welfare payment recipients; or*
- (e) *the person, or the person's partner, has a child who does not meet school enrolment requirements; or*
- (f) *the person, or the person's partner, has a child who has unsatisfactory school attendance; or*

***(g) the Queensland Commission requires the person to be subject to the income management regime; or***

***(h) the person voluntarily agrees to be subject to the income management regime.***

It can be seen that the area criterion of the original legislation has been removed so that the section has universal application throughout Australia. However, it is also clear that the criteria are designed in such a way as to target Aboriginal people without expressly saying so, but may now encompass others as well. Further, the area criterion is introduced in a different way as hereafter appears.

Proposed s 123TB considerably expands the objects originally set out in s 123 TB as follows:

***“The objects of this Part are as follows:***

***(a) to reduce immediate hardship and deprivation by ensuring that the whole or part of certain welfare payments is directed to meeting the priority needs of:***

***(i) the recipient of the welfare payment; and***

***(ii) the recipient's children (if any); and***

***(iii) the recipient's partner (if any); and***

***(iv) any other dependants of the recipient;***

***(b) to ensure that recipients of certain welfare payments are given support in budgeting to meet priority needs;***

***(c) to reduce the amount of certain welfare payments available to be spent on alcoholic beverages, gambling, tobacco products and pornographic material;***

***(d) to reduce the likelihood that recipients of welfare payments will be subject to harassment and abuse in relation to their welfare payments;***

***(e) to encourage socially responsible behaviour, including in relation to the care and education of children;***

***(f) to improve the level of protection awarded to welfare recipients and their families***

This is clearly designed to provide a justification for the legislation upon a broader scale than if it was merely applied to an area largely occupied by Aboriginal people. However the legislation can be so confined at the discretion of the Minister as new s 123TFA makes clear. It reads:

*The Minister may, by legislative instrument, determine that:*

*(a) a specified State; or*

*(b) a specified Territory; or*

*(c) a specified area;*

*is a declared income management area for the purposes of this Part.*

Proposed ss 123UCA, UCB and UCC target persons ***within the declared income management area*** who are vulnerable welfare payment recipients, disengaged youth between 15 and 25, or long term welfare payment recipients.

Vulnerable welfare payment recipients are defined in proposed s 123UGA as people who are so determined as such by the Secretary of the relevant Department and there are various provisions for making new determinations and dealing with requests for reconsideration.

There are further provisions for the exemption of welfare payment recipients from income management by the Secretary subject to their working hours, whether or not they have dependent children and where there are children, there are no more than 5 unexplained absences from school in each of deductions that may be made under income management such as for example the whole of any baby bonus (e.g. s123XJA(3))

There are also provisions encouraging persons to enter into voluntary income management agreements that need not be examined here.

What is quite clear is that the legislation gives unprecedented power to the Minister and the Secretary in respect of welfare recipients throughout Australia. However, what is also clear is that this is little more than a ruse to overcome the provisions of the RDA and that the real targets of the income management scheme are likely to be Aboriginal people including Aboriginal people living beyond the NT. It is little more than a clumsily disguised and cynical attempt to perpetuate racial discrimination against them.

I consider it to be highly unlikely that these powers will ever be used against welfare recipients generally, nor do I believe that it would be politically acceptable to do so.

Nevertheless, the very breadth of the legislation is an indication of how far this Government is prepared to go in order to maintain its income management regime. In my view it places unreasonable and unchecked powers in the hands of Ministers and bureaucrats and is a clear indication that they are not concerned with the rights of Aboriginal people or any other welfare recipients who are unfortunate enough to live in one of the areas affected.”

**Comment by Alastair Nicholson on provisions to special measures can be found in the full report attached. He does, however, state that,**

“While it may be arguable that all or some of these provisions could constitute special measures it is at least doubtful as to whether this can be achieved *ex post facto* as the Government has sought to do.”

**Overall there is a real sense of disappointment that the new legislation does little to change direction or to revisit the importance of a more meaningful engagement with Aboriginal people to ensure that they are directly involved in all policy planning and service development which directly impacts on their lives. Alastair Nicholson suggests the legislation,**

“...perpetuates the paternalism and racial discrimination inherent in the NTER.”

**Within the legislation, directly affecting the ‘special measures’, there have been some minor relaxations which will allow the Minister more flexibility. For example there is “a provision requiring Commonwealth to have regard to traditions, observances, customs and beliefs of Indigenous peoples generally, or of particular groups of Indigenous persons, in administering leases.” Such provisions are moving in the right direction but the legislation does not go far enough to provide absolute and specific protections. It almost reads as a token gesture. What’s required is robust legislation that ensures protection for the rights of Aboriginal people in line with the *Declaration on the Rights of Indigenous Peoples* to which Australia has recently given its public support. The legislation is a long way from achieving such a goal.**

## **Conclusion**

**Last year Pat Dodson reminded us that,**

“In the absence of any consultation with affected communities or any real debate in the Australian Parliament, the Government took control of communities, compulsorily acquired land and imposed administrative and statutory management over people’s lives that no other Australians, free from prison, endure.”

**The proposed changes to the legislation will not change this.**

**Several times in the last six months Australia has had to face extreme criticism regarding our neglect of Aboriginal people. In August last year James Anaya said,**

“These measures overtly discriminate against aboriginal peoples, infringe their right of self-determination and stigmatize already stigmatized communities...” 270809

**Later in the year UN Rapporteur, Anand Grover said,**

“Decades of neglect, racism and discrimination have stigmatized and disempowered these populations, impeding equal access to basic services, leaving them on the margins of the Australian society...”<sup>9</sup> 041209

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<sup>9</sup> Mr. Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

**Amnesty International's Secretary General, Irene Khan visited in November. She stated,**

"Indigenous people in remote Aboriginal communities deserve the same respect, safety and protection as does any Australian - but this will not be achieved in a sustained manner under the Emergency Response, which is stigmatising and disempowering an already marginalised people and which is in violation of Australia's international obligations... That Indigenous peoples experience human rights violations on a continent of such privilege is not merely disheartening, it is morally outrageous."<sup>10</sup>

**We are not a third-world country but Australian Aboriginal people in the Northern Territory are living in third world conditions. Over the years it has been the practice of governments to blame Aboriginal people for their problems and at the same time remove from white Australians any responsibility for the decades of neglect.**

**We are looking to government for a change in its approach, for honesty and to cease the practice of hiding these shameful realities. Most Australians realise that government cannot solve these problems overnight, but right minded people also understand that changes will only come about if there is a genuine partnership with Aboriginal people. The current legislation does nothing to promote partnership. It does nothing to empower Aboriginal people or promote the key elements of self-determination, cultural respect and cultural identity. During the consultations this situation was summed up by a Bagot community resident:**

"That is where the government is not doing ... they don't come and sit down with us. That is where it is wrong. They should have come down and set up a program, set up a big plan how of what the problem is, they sit down with us and then we can work it out together, because your policy is not working at all in remote communities."

**The previous Senate Select Committee on *Regional and Remote Indigenous Communities*, February '09 received numerous submissions and a great number of them strongly advised government to consult with Aboriginal people in order to fulfill their demands to be actively engaged in planning for their future.**

**The bills currently before Parliament are aimed at shoring up programs that have been designed in Canberra. They are paternalistic and need to be seen for what they are.**

**Senators on this Committee must listen carefully to what they are being told so that support can be found for broad amendments to the bills currently before Parliament.**

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<sup>10</sup> <http://www.amnesty.org.au/news/comments/22119/>



**‘concerned Australians’ ask that senators directly engage themselves in negotiating amendments that are designed**

- **to ensure compliance with the intent of the *Declaration on the Rights of Indigenous Peoples***
- **to require the direct input by local Aboriginal community leaders into the development of all policies and program development that will directly impact on the lives of Aboriginal people in the Northern Territory**
- **to require regular reviews of programs, independent of government**
- **to ensure a justice framework, without resort to ‘blanket measures’**
- **to recognise differences, and fulfill the promise by government of avoiding a ‘one size fits all’ approach**
- **to ensure genuine transparency,**
- **to ensure policy integrity through high quality research support**

**‘concerned Australians’  
31 January 2010**

## **APPENDIX 1**

# **Will They Be Heard?**

- **a response to the NTER Consultations  
June- August 2009**

**Hard copy of report submitted to this inquiry via mail.**

**Also available at:**

**<http://www.socialpolicyconnections.com.au/Portals/3/docs/wil%20they%20be%20heard%20report%20nov%2009.pdf>**

## **APPENDIX 2**

### **NTER Future Directions Tier 3 Regional Workshops**

#### Government Summaries

#### Includes

Attachment A: Government program

Attachment B: The Measures

Attachment C: General Comments of the NTER

“Tier 3 comprises a series of three-day regional workshops for community people from prescribed areas as well as Indigenous leaders in a particular region. These workshops will be conducted by senior staff from FaHCSIA’s Indigenous Leadership and Engagement Group” (Appendix 2)

1. Tenant Creek 30 June–2 July 2009
2. Alice Springs 14–16 July 2009
3. Darwin 5–7 August 2009
4. Katherine 11–13 August 2009
5. Nhunlunbuy 18-20 August 2009

These are attached as 5 separate pdf documents to email submission.

# Future Directions for the Northern Territory Emergency Response

From June to September 2009, the Australian Government will be consulting with Indigenous people in the Northern Territory about future directions for the Northern Territory Emergency Response (NTER).

In its [interim response](#) to the NTER Review, the Government said it would introduce legislation into the Parliament in October 2009 to remove the provisions in the current NTER Acts that exclude the operation of the *Racial Discrimination Act 1975* (RDA).

On 21 May 2009 the Government released a [discussion paper](#) setting out proposals for the measures affected by the RDA as a starting point for discussion.

The Government is open to other views, ideas and proposals put forward during the consultations.

This feedback will inform the Government's legislative strategy.

## NTER Consultation Process

The consultations are being delivered through a comprehensive four-tiered approach involving:

- Government Business Managers (GBMs) and Indigenous Engagement Officers (IEOs)
- senior officers from Indigenous Coordination Centres (ICCs) and FaHCSIA's Northern Territory State Office, and
- senior officers from the Department's National Office.

### Tier 1

Tier 1 will comprise a series of consultations within each of the NTER communities. These consultations will be conducted by the GBMs and IEOs serving these communities.

Tier 1 is targeted at individuals and interest groups in each community e.g. men, women, young people, community-based organisations, families and clan and language groups.

The purpose of these consultations is to:

- explain the Government's consultation process

### **APPENDIX 3** (2 of 4)

- explain the progress to date
- explain the Government's current position on the NTER, and in particular its position on each of the specific measures covered in the [Future Directions discussion paper](#)
- seek feedback on the Government's position, on what's working well and on what changes community people are seeking.

The Tier 1 community consultations commenced in early June and will proceed through to late August 2009.

People attending Tier 1 consultations will be encouraged to attend the Tier 2 consultations.

#### **Tier 2**

Tier 2 comprises a series of one-off workshops in each of the NTER communities (some of the smaller communities may be clustered for this purpose). These will be delivered by ICC senior officers with the aid of the Aboriginal Interpreter Service of the Northern Territory.

The purpose of these consultations is to:

- explain the Government's current position on the NTER, and in particular its position on the specific measures covered in the [Future Directions discussion paper](#)
- provide participants with an opportunity to explore and discuss each of the specific measures in detail
- enable participants to provide feedback on the Government's position, on what's working well and on any changes people are seeking.

These workshops will provide a higher level of content than the Tier 1 consultations and will give people the opportunity to explore more fully the Government's position on the NTER.

They will be scheduled public meetings, open to all community members, and will take place at the locations and dates set out in the [community visits/meetings schedule](#).

No specific times have been allocated for meetings. GBMs and IEOs will liaise with community members to determine the best times for the meeting, and will notify the community of meeting times.

Indigenous people who are interested in exploring the Government's position in greater detail will be encouraged to register to participate at a regional workshop (Tier 3).

## **APPENDIX 3** (3 of 4)

### **Tier 3**

Tier 3 comprises a series of three-day regional workshops for community people from prescribed areas as well as Indigenous leaders in a particular region. These workshops will be conducted by senior staff from FaHCSIA's Indigenous Leadership and Engagement Group.

There will be five workshops, each capped at 60 participants for logistical purposes.

The purpose of these workshops is to:

- explain the Government's current position on the NTER and in particular its position on the specific measures covered in the [Future Directions discussion paper](#)
- provide participants with an opportunity to workshop the specific measures in greater detail than in Tier 1 or Tier 2 consultations
- enable participants to provide feedback on the Government's position as well as on what's working well and what changes people are seeking.

**The Government is encouraging people with a diverse range of views on the future of the NTER to participate in these workshops.**

Nomination forms for the Tier 3 regional workshops are available from the local ICC, from GBMs in communities and from IEOs in those communities that have them. Forms may also be obtained from the local store and clinic.

People wishing to participate need to register their interest with either their local GBM/IEO or their local ICC. Nomination forms can also be sent directly by fax to 02 6264 5069.

For further assistance or information, telephone 1800 202 366.

In order to manage numbers, preference will be given to community people affected by the NTER measures and people located in a particular region. Should a workshop be oversubscribed, alternative arrangements will be considered to enable community people to have their say.

[Further information about participation is available here.](#)

The dates for the Tier 3 workshops and respective closing dates for nominations are as follows:

### **APPENDIX 3** (4 of 4)

<b>Location</b>	<b>Date of workshop</b>	<b>Closing date for nominations</b>
Tennant Creek	30 June–2 July 2009	16 June 2009
Alice Springs	14–16 July 2009	29 June 2009
Darwin	5–7 August 2009	20 July 2009
Katherine	11–13 August 2009	27 July 2009
Nhulunbuy	18–20 August 2009	3 August 2009

#### **Tier 4**

Tier 4 comprises three major stakeholder workshops – two involving the peak Indigenous organisations in the Northern Territory and one specifically for the Northern Territory Indigenous Affairs Advisory Council.

These workshops will take a similar format to the [Tier 3](#) workshops.

Attendance at Tier 4 workshops will be by invitation only. FaHCSIA National Office will be writing to the relevant organisations inviting them to nominate representatives.

The dates for the Tier 4 workshops are:

- Darwin: 18 June 2009 (NT Indigenous Affairs Advisory Council workshop)
- Alice Springs: 21–23 July 2009
- Darwin: 18–20 August 2009.

[http://www.fahcsia.gov.au/sa/indigenous/progserv/ntresponse/future\\_directions/Pages/default.as](http://www.fahcsia.gov.au/sa/indigenous/progserv/ntresponse/future_directions/Pages/default.as)

## **Appendix 4**

**Alastair Nicholson AO RDF QC**

**Notes and Comment**

**(Pages 1-11)**

### **Social Security and Other Legislation Amendment (Welfare reform and Reinstatement of Racial Discrimination Bill 2009)**

This has been sent as an email attachment with the submission.



## **NTER REDESIGN TIER 3 CONSULTATION, TENNANT CREEK**

<b>Date</b>	30 June –2 July 2009
<b>Venue</b>	Karugu Room, Tennant Training Centre
<b>Staff</b>	Geoff Richardson; Jim Ramsay; Jacqueline Bethel; Gail Ah kit; Lee-Anne Barnes; Di Collins

### **Participants**

Participation at the workshop was open to all community members in the Tennant Creek region. People wishing to participate were required to register their interest with the local Government Business Managers or Indigenous Engagement Officers. Thirty six people drawn from Tennant Creek, Murray Downs, Ali Curung, Elliott and Alpurrurulam, attended.

### **Format of the Meeting**

The workshop was conducted over two and a half days. It was structured to provide participants with detailed information on the Government's position on the NTER as detailed in the Future Directions Discussion Paper, including:

- its intention to table legislation in the Spring Sitting of Federal Parliament to restore the Racial Discrimination Act; and
- proposed changes to individual measures to improve the workability of the NTER.

A copy of the agenda is at **Attachment A**. Each information session was followed by a workshop using the specific questions from the Discussion Paper and a plenary session which engaged the whole group into the discussion about the future directions of the NTER.

Participants were advised that the government has engaged a consultancy firm to ensure that the consultations are conducted in a transparent and professional manner.

### **General Comments about the NTER**

There were three propositions strongly supported by workshop participants.

1. That the Government establish a working group of Indigenous people to work on the redesign of the NTER.
2. That the Government establish local Indigenous committees to monitor the progress of the NTER against set targets. Participants considered that what has been passed off by the Government as achievements, are just numbers (quantitative) – not evidence of any real impact (qualitative).
3. That the Government focus on achieving real outcomes and determine if the NTER is actually improving people's lives or not. These outcomes must be able to be measured, monitored and reported against at a regional, state and national level.

There were a range of other issues raised.

#### 1. The Government's Mandate

- The previous government lost its mandate partly due to its intervention into the NT and setting aside of the RDA.
- It is up to the Parliament to make the laws and change the legislation.
- The issue of a trigger for a double dissolution was raised.

#### 2. The need for an effective complaints handling procedure

- There is a culture and practice of buck-passing by different levels of government and certain authorities.
- People were often told by departments that their issue was not that department's responsibility, but offered no support to find the appropriate one.
- No one seems to care about the concerns and treatment of Aboriginal people.

#### 3. The lack of understanding/commitment by people in government

- People expressed frustration at the lack of consultation, particularly with Indigenous people working in the system – they have a lot to contribute and should be consulted.
- A lot of changes are happening but not all of Government is working together properly. There is a lack of coordination at the local level e.g. staff from Attorney General's Department were in Tennant Creek to hold meetings on the same day as the NTER consultations so people had to decide which meeting they should attend, yet both were important. The police are not working with night patrol and the Shire and CDEP are just a big mess.
- There was a strong view that the government is taking control away from the community. Tennant Creek has been working very hard to control alcohol and its effects in the town, but this has been overridden by the NTER (with little acknowledgement of the work people were already doing on the ground).
- People's lives have been turned upside down by the NTER, but nothing effective has been put in place for the children – no real outcomes, just 'numbers'.
- Families and Children's Services (NT) is not doing their job effectively and should be knocked down and rebuilt in consultation with the community.
- If the NTER can do sweeping changes, why can't sweeping changes be made to the public service culture, particularly where departments are not doing their job.

#### 4. There is a lack of support for Indigenous Organisations

- The government is letting organisations 'die' e.g. Garungu.

#### 5. More people are being locked up

- There is no change in behaviour just more arrests.
- More rehabilitation services are required in Tennant Creek.
- There needs to be stricter controls on alcohol licensees and outlets.

- Alcohol Courts; Community Courts; Circle Sentencing - were viewed as positive approaches to alcohol issues. When people go to community controlled courts, they get appropriate sentences and also 'treatment'. At present, you have to be a criminal before you can get help.

#### 6. Indigenous Involvement

- There was a strong view that Indigenous people should be involved in the redesign of the NTER measures, not just be consulted.
- Regional strategies are needed to support local service delivery.
- There is too much talking and not enough action - we have been to three meetings in the past two weeks – what happens to our information?
- There is no regional strategy for Wumpurrani (local people) to gain employment in government - how can we get the desired outcomes for Wumpurrani people if there are not people with this knowledge working within the system?
- There has been no acknowledgement of information collected from Indigenous people in meetings such as these. The participants at this meeting are from different communities and language groups. People need to have their contribution to meetings with government officials properly acknowledged.

#### 7. The need for positive messages:

- Under the NTER, there should be signs identifying different country e.g. 'Welcome to Warramangu country', not those dirty blue signs. We would like signs at the entrance to each community to have traditional symbols and strong positive messages (in language) about family and land.
- Police and Government Business Managers (Gyms) are only working to their own mandate; they are not involving themselves in communities ("no respect").
- GBMs are setting a precedent on how work can be done in communities e.g. 'different strokes for different folks'.

#### 8. Target problem areas

- There was never a case of child abuse at Murray Downs so the 'Little Children are Sacred Report' doesn't mean a thing to us. The NTER measures should only be applied to those communities who were investigated and mentioned in the report.

#### 9. Understanding the Government's position

- At the completion of the workshop, participants advised that they had a clear understanding of the engagement/consultation process. They also made a commitment to continue to be involved in the re-design process.

## **Racial Discrimination Act 1975 (RDA)**

The Government's commitment to restore the RDA to the operations of the NTER was discussed at length. Participants advised that the manner in which the NTER was introduced and the suspension of the RDA has caused significant distress to Aboriginal people right across the Northern Territory (NT) e.g. men have been portrayed as paedophiles and abusers, women as poor mothers.

While the government's commitment to restore the RDA was welcomed, concerns were raised about what constitutes a Special Measure; and the fact the Federal Parliament, not the Government, ultimately decides whether the RDA is restored.

## **Income Management (IM)**

### **Summary**

Participants acknowledged there have been some positive benefits from IM. However, did not support either of the compulsory options outlined in the Discussion Paper.

The majority of participants supported a voluntary model where IM would either be triggered by a persons (unacceptable) behaviour or available to a person who wanted it e.g. those that found it beneficial.

Several participants advised that Indigenous leaders should be involved in assessing individual cases for IM as they know the people in their communities; who is struggling; and those causing disruption. Many participants claimed public servants were not qualified to make these decisions as they did not know the history or background of the individuals being assessed.

The workshop considered IM should have been applied nationally, as it was not just Aboriginal people in the NT that had problems. Furthermore, participants advised applying the measure just to Aborigines in the NT has caused divisions (both between Aborigines and non-Aborigines; and also between Aborigines that are income-managed and those that are not). Participants noted there were many people outside prescribed areas that needed IM; and there were many in prescribed areas that did not.

### **Benefits**

- The left over money from the BasicsCard means more money for the following week.
- Direct deductions are allowed.
- More money is spent on food and clothing; more fruit and vegies are available; and there is more food on the table.
- Income Management (IM) has provided funds that can be shared amongst the family for food/clothing.
- It is good for those who cannot budget.
- The BasicsCard helps elders with their shopping.
- It can be used for school lunches – people can also use Centrepay.

- It makes it easier to pay rent and things such as ‘meals on wheels’.
- More kids are going to school.
- Even people with alcohol problems are now going shopping.
- It is making people buy essentials and pay bills.
- Income Management (IM) is positive as it is making people think (about their responsibilities).
- Less humbugging – from both drinkers and non-drinkers.
- There is a reduction in the number of mothers gambling.
- There was some support for Option 1 in the Discussion Paper.
- There are benefits from continuation of IM.

### **Problems**

- BasicsCards cannot be used for such things as the Show; sporting carnivals; funeral expenses; school excursions; and bus fares - so kids are missing out.
- Food deliveries to communities are inconsistent.
- When the food is of poor quality there is no place to be reimbursed for bad goods; orders are delivered and left on doorsteps.
- The money is going into the BasicsCard and not into the kiddies account as access to the kiddies’ card is restricted.
- The issue of getting BasicsCard balances needs to be sorted out as it causes embarrassment and frustration.
- Individuals should be able to determine what amount should go into the BasicsCard.
- Income Management (IM) is causing depression amongst our people e.g. financial concerns; embarrassment/shame; lack of flexibility and control over money.
- Young people are still taking money off old people and accessing their BasicsCards.
- People are having difficulties in (and being barred from) certain shops – Aboriginal people are encountering abusive attitudes from shop owners and staff; some stores are abusing the BasicsCard system e.g. charging to use it or to get balances; and allowing grog to be purchased.
- People are embarrassed by not knowing the balance on the card, particularly when it is declined at shops.
- There is a lack of choice in shops/outlets where the card can be used.
- There is no name on the card, just a signature – which opens up the potential for misuse of cards by others.
- Balance enquiries are not 24/7; cardholders can only get balances through Centrelink; Need ATM access to check balances; also BasicsCard statements; people with limited numeracy skills are having difficulty using the telephone prompts.
- Patients cannot use BasicsCards in hospital or when interstate for hospital or other reasons.
- There needs to be greater choices on what people can get income-managed - no flexibility in use of cards; need more variety and BasicsCard facilities.
- Income Management (IM) is a discrimination of people’s rights.
- People are bartering cards for cash.

- It should target the ‘problematic’ and not the families that can budget their dollars.
- It makes it difficult to support kids away from home for school.
- Income Management (IM) cannot be a stand-alone strategy; it needs to be linked to other support programs (life skills, money management etc).
- Income Management (IM) should target the irresponsible families.
- The Government needs to create trust with Aboriginal people – not target everyone.
- Abuse of welfare payments occurs across the whole country.
- BasicsCards cannot be used by old people for cigarettes/tobacco.
- The IM system is very confusing.
- There is wide support for a voluntary IM model.
- Unhealthy and/or neglected kids go from family to family.
- Domestic violence is fuelled by peoples’ inability to control their money – IM can fuel violence in families.

### **Improvements**

- Income Management (IM) should be applied based on an assessment of an individual’s circumstances; it should only be for those that cannot look after family e.g. drug and alcohol abusers. These people need to be under constant monitoring from authorities e.g. police, health, FACs etc.
- The system needs to allow easier access to money on the BasicsCard, perhaps through ATM’s.
- Centrelink should have a toll free number.
- Improvements need to be made to the supply of fresh, better quality, cheaper food and stock – is there any possibility of partnerships between the major companies like Coles, ‘Woolies’ and IGA to improve quality and price of stock and supplies?
- There was a call for better and more varied food in stores to cater for different diets e.g. diabetics, vegetarians. There needs to be community input to what is stocked in stores.
- There is confusion about the government’s approach to community stores. People are getting different messages about stores.
- A recent Women’s camp of 130 women reported they were happy with IM; however the older people and the ones that can manage their money don’t want it. Participants considered IM should only be applied to drinkers etc.
- Before the Intervention came into play, some people in Tennant Creek had spoken about people that couldn’t budget their money. There was a suggestion that something should be put in place, like IM.

### **PUBLICLY FUNDED COMPUTERS**

The meeting noted the Government’s proposed changes, but due to the fact that the number of community residents that had access to publicly funded computers was very limited, participants did not express much interest in this topic. Only one group provided feedback during the plenary session and advised:

- computers were not generally available on communities; and
- there were only three computers available for general use by local people in Elliott.

## **ALCOHOL RESTRICTIONS**

### **Summary**

This measure generated a great deal of discussion. There were many stories about the progress of this measure; about ongoing concerns; and the community's preparedness to tackle this issue. The workshop generally supported the proposed changes to this measure, but wanted more action taken to manage alcohol usage and combat alcohol misuse, rather than just restrictions and policing. Comments included:

- People are being killed by grog - it particularly affects young people who go hard (binge drink).
- Things need to change for the safety of the children.
- There are still rivers of grog travelling through this town (Tennant Creek) - how do we steady up these rivers of grog?
- There needs to be stronger legislation to control alcohol.
- In WA (Halls Creek and Fitzroy Crossing) Aboriginal leaders are asking the government to slow down the tap on the rivers of grog.
- We want the government to come and talk to people on ways to make things better.
- There are a lot of kids walking around town drunk and nobody's doing anything about it.
- Most of the people from past generations are in the cemetery (loss of leadership).
- Family violence is still happening (but going unnoticed by the authorities). Our mob are observing it - there hasn't been any reduction in family violence.
- The figures show that the Barkly region has the worst amount of violence and sexual assault per capita than elsewhere in the NT.

### **Benefits**

- The restrictions mean grog is not available all day.
- Police are now confiscating grog.
- It is leading to safer communities; reinforced dry communities.
- Alcohol issues are now on the political agenda.
- Less violence and less noise in communities and town.
- Fewer children hanging around pubs and town.
- Fewer children going to other peoples houses to sleep over (to escape problems at home).
- Alcohol related violence is being monitored, in a cultural sense, by members of the community.

### **Problems**

- Prescribed (restricted) areas are too big – making alcohol restrictions difficult to enforce/manage.
- Police often act in an arrogant manner towards Aboriginal people.
- Licensees are showing their racism to Aboriginal clients. Their approach to responsible service often goes to extreme (an excuse to treat people badly).

- There are people affected by the restrictions who drink responsibly and don't abuse the system.
- The restrictions encourage drinkers to drink more; change their drinking patterns; take more risks.
- There are still mothers drinking and neglecting their children/babies.
- There is no involvement or inclusion of Aboriginal people in managing this issue and reporting back to Government.
- Some participants considered that the restrictions haven't made a big difference because people are drinking on the community boundaries. The Night Patrols and police are assisting those people. However:
  - Night Patrol service is only funded for a few hours a day; and
  - Police support is often not there when the Night Patrol and/or community needed it. If the Night Patrol rings, the police do not attend until the next morning.
- Some participants considered that the alcohol restrictions have had little impact on people's lives because nothing proactive has been put in place to address the causes of alcohol misuse and binge drinking e.g. no sustainable programs in place.
- Police are not capable of dealing with alcohol issues (Other than locking people up or fining them). It was also noted that many communities did not have permanent police, only Aboriginal Community Police Officer (ACPOs).
- Old people are changing their drinking patterns and are now buying wine from the 'Elliott 'take-away' - which is bad for their health. We would prefer that people to be allowed to purchase six -packs of beer for takeaways. If they want to do any other grog arrangements they need to go somewhere outside of town (say 2 km). If they bring grog into the community, the violence starts.
- There are no prevention or rehabilitation programs to help the people in community.
- Non Indigenous people are allowed to take kids into pubs; in some pubs, Aborigines aren't.
- There is more alcohol coming into town due to increased alcohol trafficking.
- Licensees use alcohol addiction as a weapon to control freedom of speech (trespass notices).
- People are finding ways to abuse the BasicsCard to access alcohol.
- There was a report that Aborigines are being charged as much as \$150.00 for a 30 pack of beer; non Aborigines pay only \$30.00.
- 'Whites' can go into the bar to drink; 'blacks' have to go to a window and stand in line ('blackfella has to sit in the shade with the bullock' ).
- There is an increase in under age drinking:
  - penalties for providers not strong enough;
  - police are not supportive;
  - a 14 year old girl can get served in a particular bar and is not required to show identification – spoke to the Liquor Commission, they advised that an under aged persons with a guardian can go into premises that sells liquor;



- parents (mothers) taking kids, including babies into premises; some are there all day - even when the place is overcrowded;
- school drop out rates have increased due to increase in under-age drinking; and
- allegations of young girls being supplied grog by older people.
- Outstations need to be retained outside Elliott to be used for a rehabilitation programs for people that have police problems. Elders will look after the young people and help them work through their problems.
- A black market in alcohol has been created using homebrew.
- People are frustrated at not being 'heard' regarding solutions to the problems – 'Aboriginals are ignored even though we live and breathe it'.
- The restrictions haven't changed drinking patterns - there is still violence and grog in communities.
- Alcohol is only seen as a black issue.
- Aboriginal people have been fighting against grog for years; JCAC history needs to be acknowledged as this is an Aboriginal cultural approach to alcohol management. The non Indigenous system is too soft.
- Businesses live off the disadvantages of Aboriginal people.
- If people want to see positive case studies, they should refer to the 'Grog War' book.

### **Improvements**

- Education and other support programs are needed.
- Outstations should be used for correctional programs e.g. for people to dry out; rehab programs need to be controlled by community elders and Traditional Owners.
- We need community controlled social clubs.
- Need to start a community owned response group to deal with alcohol issues (with Aboriginal committee members).
- Alcohol restrictions should stay, as they are aimed at stopping children from hanging around pubs.
- Aboriginal cultural disciplinary measures should be imbedded with 'white-fella's' measures.
- Have local alcohol courts in place and strengthened to impose penalties and rehabilitation orders.
- Council of Elders and Respected Persons (CERP) should be the authorised body to advise the NT Liquor Commission on all matters related to alcohol restrictions and management of licences, content and opening times.
- There was some support for wet areas.

## **FIVE YEAR LEASES**

### **Summary**

The Governments proposal was noted, however, the discussions revealed that either, very few people knew much about this measure or they weren't prepared to comment for cultural reasons. The majority of participants took the view that discussion on land issues was the domain of the Land Councils and Traditional Owners. The comments included:

- An example (case study) demonstrating the importance of effective negotiations when it comes to leases, was provided. It involved an Indigenous organisation on a 40-year lease negotiating with NT Housing over the management of community housing. A bid was made for sites for ceremony camps - the organisation asked to lease areas in town to cover the sacred sites. There was a need to negotiate this so that the government could not come in and take over. The organisation led the discussion because they had the knowledge of what was required
- Participants expressed a strong opinion that Traditional Owners needed to be aware; take control over the long-term future of their country and be prepared to negotiate with the government - taking pride and control over the way they do it. 'We have been talking about what we can do. However, we need to be smart on how to do it'.

### **Benefits**

- Landowners negotiate 'just terms' after the lease is over.
- Traditional Owners need to negotiate with the Land Councils and the NT and Federal Governments.
- The need to consult with Traditional Owners will be more of a priority.

### **Problems**

- Five-year leases create more government red tape which hinders infrastructure development on communities.
- Leases tie up our land.

## **COMMUNITY STORES**

### **Summary**

This measure also generated a great deal of discussion. The Government's proposed changes were noted and no major concerns raised about the proposed direction. There was; however, significant discussion about the cost of food in remote communities; the attitudes and business practices of mainstream store owners; and the role of Outback Stores.

Participants were informed that the original measure was aimed at improving the management and financial performance of community stores as well as the quality of goods available. They were also advised that while the Government was concerned about the price of goods, there was a lot more action being taken outside of the scope of the NTER to improve this situation – including a Federal Parliamentary Inquiry.

Participants advised that a report had been produced about store prices at Elliott, where a price survey comparison showed that essential items such as milk and bread were twice as high in Elliott, than they were in Darwin.

## **Benefits**

- The supply and price of fresh food, vegies and meat, as well as frozen foods has improved.
- Store committees are made up of community people.
- The measure requires the Store Manager to know about store business.
- There is a lot more education around nutrition (good and bad food).
- Shelves are stocked with tin foods.
- White goods are available.
- The BasicsCard and store cards are now available.
- Some communities that previously didn't have stores now have them.
- People now have some choice.
- There is reduced travel as people no longer have to drive long distances to shop.
- There are stronger messages around healthy tucker.

## **Problems**

- Stores should stock more bush tucker (kangaroo steaks, not just tails).
- Need more training in governance and how to run a business (retail training).
- Murray Downs station store and the store at Epenarra are owned privately, but licensed. Prices are up to four times higher than Darwin prices. No other options for shopping – Ali Curing is 30 km away.
- Car tubes and Toyota tyres are double the price.
- Sunshine milk and fuel prices are too high.
- CDEP workers do not get paid much money.
- We want our own store in the community.
- The attitude of store owners and/or their staff is often very poor.
- Some stores are abusing the IM system – holding BasicsCards and key cards.
- The quality and range of goods is still a major problem in many areas.
- People don't understand how Outback Stores works.
- People don't want to lose control over their store.
- Some store operators create division in communities through corrupt business practices.
- Using the BasicsCard system in community and privately owned stores is still a major problem for Aboriginal people (see comments under IM).

## **Improvements**

- Greater use of the Foodbarn in Tennant Creek as a training facility for other communities that have stores – perhaps in conjunction with Julalikari and Outback Stores.
- Support local industry in communities e.g. fruit and vegie growers; bush tucker producers; and local bakeries.
- Set up and support regional stores strategies and community capacity building.
- Have alternate arrangements for bush orders e.g. Tennant Creek Foodbarn may be able to undertake some remote deliveries.
- Improve community access to books on food, cooking, nutrition and diabetes. Also develop promotional material.

- Allow community people to nominate the stores that can participate in the BasicsCards system - not the government.
- Put a mechanism in place to monitor all the businesses that have access to BasicsCards and Store Licences.
- Need to have photo id on BasicsCard.
- Operate a mobile stores service to remote communities include cooking/nutritional/promotional material.
- Explore potential for consolidating store business to maximise economy of scale e.g. working with other communities to buy from the same supplier; use the same freight service etc.

## **LAW ENFORCEMENT**

### **Summary**

The government's proposed action on this measure was noted. There was a mixed level of awareness of the measure, but participants saw law enforcement as a major issue for Aboriginal people in the NT. Most of the comments during this session were directed at the NT Police. This included:

- People need to know how they can access the National Indigenous Violence and Child Abuse Intelligence Taskforce (NIITF).
- People don't know that they have to go through this avenue when a child makes a disclosure in a community.
- It would be good for this mob (NIITF) to come out to community and explain their role and responsibilities. This also relates to discussing their role in tackling family violence.
- There is very little information out on communities about the NIITF - their job is being able to investigate allegations of sexual abuse.
- Their job is over and above what the normal police are able to do.
- If someone knows that there is something happening the NIITF will protect your identity and will investigate.

### **Improvements**

- Criminal checks should be required for outsiders looking at employment in the community (including contractors).

### **Problems**

- Community members ring the police and the police do not prioritise the matter; don't start working until the afternoon.
- Community policing has gone back to the police using 'big sticks'.
- Many considered that the police have inappropriate attitudes towards the Aboriginal community – there were reports about police taunting people and being abusive and aggressive.
- Participants considered that police have no respect for people's homes and privacy.
- It is alleged that the Police have ignored families doing the right thing and have created a wedge between families. Overall it is a poor and inadequate service in the bush/remote regions.
- Night Patrols should work together with the police.
- Things might work better if the Night Patrols had power and could check police cells for clients after hours.

- Funding is required for outstations so that offenders could do 'time' there and be rehabilitated.
- Aboriginal Community Police Officers (ACPOs) need support from employers and community.
- There should be Aboriginal cultural awareness programs for outsiders employed in communities. This training should be provided by local people.
- People were concerned about feedback to community on information provided to authorities.

## **BUSINESS MANAGEMENT POWERS**

### **Summary**

Under this measure, the government has the power to stop funding to an organisation if they believe it is not doing its job. The government proposes to remove this power. However, the workshop considered that this power should stay in place for the duration of the NTER (that is until 2012).

There was some concern expressed about the quality of corporate governance training provided by the Office of the Registrar of Indigenous Corporations (ORIC) - it doesn't relate to what is happening on the ground. People need more support to build their capacity to run their organisations.

### **CLOSE**

Geoff Richardson thanked all participants for their contribution and advised that:

- the consultations will continue in communities until the end of August;
- the government will then make a decision on how it will redesign the measures;
- the legislation will be drafted and tabled in Parliament in October 2009; and
- a report on the consultations will be prepared and released to the public in October 2009.

The workshop ended with separate men's and women's meetings. Reports of these meetings have been lodged with the Government.

**Tennant Creek Regional Workshop  
30 June -2 July 2009  
DAY ONE**

<b>TIME</b>	<b>NO.</b>	<b>ITEM</b>	<b>FACILITATOR</b>
8.30 – 09.00	1.	Registrations	Lee-Anne Barnes
9.00 – 10.30	2.	Opening <ul style="list-style-type: none"> <li>• Welcome to Country</li> <li>• Introductions/Housekeeping</li> <li>• Purpose</li> <li>• The Consultation Process</li> <li>• Background to the NTER</li> <li>• The Government's Position</li> </ul> Discussion Group <ul style="list-style-type: none"> <li>• Initial feedback</li> </ul> Questions and Answers	Geoff Richardson
10.30 – 11.00		<b>MORNING TEA</b>	
11.00 – 12.30	3.	<b>NTER Review</b> <ul style="list-style-type: none"> <li>• Key Recommendations</li> <li>• Government response</li> </ul> <b>The National Picture</b> <ul style="list-style-type: none"> <li>• Key points about the NTER</li> </ul> <b>The Major Benefits</b> <ul style="list-style-type: none"> <li>• Overview of the major achievements</li> </ul> <b>The <i>Racial Discrimination Act 1975</i> (RDA)</b> <ul style="list-style-type: none"> <li>• The NTER and the RDA</li> </ul> The Government's commitment	Jim Ramsay
12.30 – 1.30		<b>LUNCH</b>	
1.30 – 2.00	4.	Workshop Feedback	
2.00 – 3.30	5.	<b>The Measures – Income Management</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> </ul> <b>Discussion Group</b> <ul style="list-style-type: none"> <li>• Feedback</li> <li>• Questions and Answers</li> </ul> Workshop Session	Geoff Richardson
3.30 – 4.00		<b>AFTERNOON TEA</b>	
4.00 – 4.30	6.	Workshop Feedback	Geoff Richardson
4.30 – 5.00		<b>RECAP/CLOSE</b>	

## Tennant Creek Regional 1 JULY 2009 DAY TWO

TIME	NO.	ITEM	FACILITATOR
9.00 – 9.15	7.	Recap of Day One <ul style="list-style-type: none"> <li>• Comments/Feedback</li> </ul>	Geoff Richardson
9.15 – 10.30	8.	The Measures – Alcohol <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> <li>• Workshop</li> <li>• Feedback</li> </ul>	Jim Ramsay
10.30 – 11.00		<b>MORNING TEA</b>	
11.00 – 12.30	9.	The Measures – Leases <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> <li>• Workshop</li> <li>• Feedback</li> </ul>	Geoff Richardson
12.30 – 1.30		<b>LUNCH</b>	
1.30 – 3.00	10.	The Measures – Community Stores <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> <li>• Workshop</li> <li>• Feedback</li> </ul>	Jacqui Bethel
3.00 – 3.30		<b>AFTERNOON TEA</b>	
3.30 – 4.45	11.	The Measures – Other <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> <li>• Workshop</li> <li>• Feedback</li> </ul>	Geoff Richardson
4:45 – 5:00	12.	<b>RECAP/CLOSE</b>	

## Tennant Creek Regional 2 July 2009 DAY THREE

TIME	NO.	ITEM	FACILITATOR
9.00 – 9.15	13.	Recap of Day Two <ul style="list-style-type: none"> <li>• Comments/Feedback</li> </ul>	Geoff Richardson
9.15 – 10.30	14.	Men/Women Meetings: <ul style="list-style-type: none"> <li>• Hot Issues</li> </ul>	Jim Ramsay/Jacqui Bethel
10.30 – 11.00		<b>MORNING TEA</b>	
11.00 – 12.30	15.	Plenary Session: <ul style="list-style-type: none"> <li>• Major Messages for Government</li> <li>• The Way Ahead – Future Developments</li> <li>• Acknowledgements and close</li> </ul>	Geoff Richardson
12.30 – 1.30		<b>LUNCH</b>	
1.30		<b>PARTICIPANTS TRAVEL HOME</b>	



## NTER REDESIGN TIER 3 REGIONAL WORKSHOP ALICE SPRINGS

<b>Date</b>	14 – 16 July 2009
<b>Venue</b>	Crowne Plaza Ballroom
<b>Staff</b>	Geoff Richardson; Jim Ramsay; Jacqueline Bethel; Gail Ah kit; Lee-Anne Barnes

### **Participants**

Participation at the workshop was open to all community members in the Alice Springs region. People wishing to participate were required to register their interest with the local Government Business Managers or Indigenous Engagement Officers. .... people attended.

### **Format of the Meeting**

The workshop was conducted over 2 ½ days. It was structured to provide participants with detailed information on the Government's position on the NTER as detailed in the Future Directions Discussion Paper, including:

- its intention to table legislation in the Spring Sitting of Federal Parliament to restore the Racial Discrimination Act
- proposed changes to individual measures to improve the workability of the NTER

All measures were explained; the level of awareness of the Discussion Paper was low to medium.

A copy of the agenda is at **Attachment A**. Each information session was followed by a workshop using the specific questions from the Discussion Paper and a plenary session which engaged the whole group into the discussion about the future directions of the NTER. Participants chose to respond to questions regarding Publicly Funded Computers and Restrictions on Pornography in separate gender group discussions.

Participants were advised that the government has engaged a consultancy firm to ensure that the consultations are conducted in a transparent and professional manner.

A summary of the workshop responses to each of the measures is at **Attachment B**.

A summary of the general comments made about the Northern Territory Emergency Response is at **Attachment C**.

## **Close**

Geoff Richardson thanked all participants for their contribution and advised that:

- the consultations will continue in communities until the end of August
- the government will then make a decision on how it will redesign the measures
- the legislation will be drafted and tabled in Parliament in October 2009
- a report on the consultations will be prepared and released to the public in October

The workshop ended with separate men's and women's meetings. Reports of these meetings have been lodged with the Government.

**THE MEASURES**

**Racial Discrimination Act**

**Summary**

Participants noted the Government's commitment to restore the *Racial Discrimination Act 1975* (RDA) and gave overwhelming support for the reinstatement. Some comments from participants on how the Government could ensure the NTER complies with the RDA included:

- Income Management should be implemented across Australia for all income support recipients
- Aboriginal people should be acknowledged in the Australian Constitution
- Do not ask Aboriginal people to give up their land in exchange for basic services
- Take a bottom up community development approach to addressing Aboriginal issues
- Give Aboriginal people equal access and the same standards of education, health, housing and social services as those people who do not live in prescribed areas

**Income Management (IM)**

**Summary**

Participants noted the Government's position on Income Management (IM). Many recognised there had been some benefits to communities as a result of IM, but overall, they did not support either of the options in the Discussion Paper.

Participants supported a voluntary model with triggers for those people who fail to send children to school or neglect or abuse their children. Participants considered that compulsory IM was discriminatory, degrading and disempowering to Indigenous people. The majority considered that the IM measure should be applied to all income support recipients across Australia - not just to people living in prescribed communities in the Northern Territory.

The lack of infrastructure, planning and responsiveness to issues arising from the introduction of the BasicsCard was seen as exacerbating people's concerns about the IM measure.

**Benefits**

- People have money for food, clothing and essential items.
- IM participants are now more aware about how they should spend their kid money

- More people (men in particular) are contributing to food costs and other household expenditure
- People are more healthy because they are eating better and not drinking away all their money
- Kids are being fed through the School Nutrition Program.
- IM is useful for old people as they have their card to go shopping and don't need to use cash

## **Problems**

- IM has done little to address the underlying causes of the problems in communities
- Kids money is still being misused
- People are sharing PIN numbers and calling Centrelink using other people's cards
- Humbug of old people by grandchildren and other family members has not decreased
- People are still gambling and drinking and Baby Bonus payments are now being used to buy vehicles, which in-turn are being used for grog running
- The BasicsCard has caused people to feel degraded and disempowered
- The lack of planning and infrastructure around the BasicsCard has left card holders unable to access balances or seek assistance when experiencing card difficulties outside of normal business hours. When the system is down or people are unsure whether they have money available of their Basicscard, they often go without food
- The BasicsCard cannot be used for essentials items such as:
  - travel interstate for medical or family reasons e.g. patients travelling to Adelaide Hospital for scans etc
  - tickets for buses, planes and trains
  - food when interstate for medical reasons
  - children's school trips, fees or uniforms
  - pocket money for the kids
  - car registration
  - hotel accommodation
- The numeracy and literacy levels in some communities are low, so old people in particular, do not understand what is going on or how IM works
- IM is very hard to operate for people living on homelands and outstations, as there is no transport to get to town to use the Basicscard
- Some people have had to go without food or money for weeks until Centrelink agents to go out to communities to process their Centrelink forms
- It is difficult having to deal with Centrelink operators interstate when they have little understanding of IM and/or the way the BasicsCard works. In addition they do not have cultural understanding or the ability to communicate with Aboriginal people
- IM is limiting people's ability to travel for cultural or family reasons e.g. funerals, ceremonies, lore business
- Many people do not have transport to get to Woolworths or Coles to use the BasicsCard

- English is limited for many old people in communities, making it difficult for them to communicate with Centrelink operators about IM issues
- IM is not appropriate for people on disabilities who may have special needs
- There are only a small number of outlets that accept the BasicsCard. The government is just making Coles and Woolworths richer
- It is embarrassing and a shame job for people who do not know their BasicsCard balance - they are stared at and made to feel embarrassed particularly when there are card difficulties or there is not enough money on their card
- Stores are treating people more disrespectfully since the BasicsCard was introduced
- This measure takes away Aboriginal people's self determination
- The government has failed Aboriginal people again and are continuing to punish Aboriginal children for the government's failures
- Where are our basic human rights?
- This measure is just causing more dependency

### **Improvements**

- Everyone on Centrelink income support, that do the wrong thing, should be on IM, not just people living in prescribed areas
- Everyone's kids money (Australia wide) should be 100 per cent income-managed
- Set up a bank account for the kids like an endowment cheque system so the money goes directly to the child
- Centrelink needs to make note of kids money being spent on vehicles and take appropriate action where the vehicles are being used for grog running
- The BasicsCard should be able to be used across Australia, not just in the NT. It should be able to be used for medical travel interstate. There needs to be more BasicsCard outlets and access to funds and outlets when travelling interstate
- There needs to be photo IDs on BasicsCards to stop fraudulent activity
- People need to be taught money management and budgeting skills and not have someone else do it for us (manage our money). The current approach to IM just creates further dependency
- There needs to be machines in each community and nearby towns to allow people to check the balances on their BasicsCard
- There needs to be weekend/out-of-hours service to assist IM participants with card difficulties
- Centrelink needs to have Aboriginal people in their Call Centres who can communicate in language; not interstate operators who do not understand
- Centrelink needs to visit communities more regularly
- If a compulsory, exemption model is introduced there needs to be a culturally appropriate appeals process and more Aboriginal people working in Centrelink
- Talk to individual communities about it (IM) and see what each community thinks and wants - we are not all the same

- Irresponsible people don't have values, so regardless of what the government says or does, they are not going to change their ways
- Communities need to determine what is appropriate behaviour and agree on a set of values that makes it clear to all people who live in a community, what is expected of them (social norms)

### **Should Income Management be continued?**

- Compulsory Income Management should not continue
- A voluntary IM model with triggers for people not sending kids to school; not spending money on kids; and abusing or neglecting kids should be introduced
- The current measure is just breeding dependency

## **Alcohol Restriction**

### **Summary**

Participants noted the proposed changes and generally supported the plan to have alcohol restrictions looked at on a community by community basis. Some stated there had been benefits to their communities as a result of increased policing and alcohol restrictions, while others viewed it as another example of the government negating Aboriginal people's basic human rights.

### **Benefits**

- There is less fighting in communities
- People are becoming healthier
- People in communities feel safer
- In Harts Range a good relationship has been established between the NT Police and Night Patrol workers
- More children are now get up early for school, as there are no drunks to keep them awake at night
- One group considered that there has been no change in Hermannsburg community - we haven't seen any benefits. Conversely, another group reported a significant reduction in violence and anti-social behaviour

### **Problems**

- The measure is forcing people to drink outside of communities (on the fringes)
- People can no longer drink socially in communities at barbeques and get together
- People are not learning responsible drinking habits
- There are too many take away alcohol outlets in towns for people to purchase grog
- The boundaries (wet areas) which were available for people to drink away from communities no longer exist
- Pastoral leases being treated differently to prescribed communities even though they are right next door to one another?

- Grog is still going into communities; people are still drinking in the communities where there are no police; people are just travelling away from policed areas to drink
- The NT Police are not doing enough to stop grog coming into communities
- People are just going into town to drink, so more people are now driving without a license and/or driving unroadworthy cars. There is also more alcohol related violence in townships and more lives lost as a result of alcohol related car accidents
- Drinkers are now getting stuck in town and can't get home

### **Improvements**

- There needs to be drug and alcohol counselling services made available in communities, including in the Anangu Pitjantjatjara Lands
- The government needs to bring back the *Living with Alcohol* programs; Living with Alcohol courses should be compulsory for all drinkers
- There needs to be back up services for people released from the Central Australian Alcohol Program Unit (CAAPU)
- Communities need to establish a set of community values around drinking and abide by them
- We need to establish cultural protocols and ask people to respect these values when they go to town – communities need to set rules of behaviour for their people when they go to someone's else's country – they need to respect other peoples land. Communities should have a council of elders to deal with this sort of thing
- There needs to be wet areas in communities for controlled drinking
- The recommendations made by the NTER Review Board should be followed
- Offenders should be given bigger fines; at the moment people just laugh and do it again. It will make it better for our children and old people if there are stronger penalties for alcohol related offences
- There should be alcohol permits to allow people to drink at home if they live in a prescribed community
- Social clubs should be trialled on communities
- More police stations and Aboriginal Community Police Officers should be placed on communities
- Each community should have a safe house for women and children
- It is not only grog that needs to be controlled, marijuana use is also a problem
- The government needs to reduce the number of licensed take away outlets in the NT
- Licencees should also be penalised and lose their licenses if they are not doing the right thing
- Community people should be banned from going to town if they are caught grog running

### **Should alcohol restrictions be continued?**

- People should have the right to drink in their communities if they choose
- Some people in Kintore want alcohol restrictions to continue

## **Will individuals or communities benefit from a continuation of alcohol restrictions?**

- This needs to be dealt with on a community by community basis
- The issue goes back to basic human rights

## **Restrictions on Pornography**

### **Summary**

Participants noted the proposed changes and generally stated that pornography was not a big issue in Aboriginal communities before the NTER was introduced. There was a prevailing view that an unintended consequence of erecting signs in each community was that it had raised children's awareness and curiosity on the issue. Community members advised that while they did not want pornography in their communities, the signage should be removed as it was offensive and sent the wrong message to people visiting communities.

### **Benefits**

- Community members advised they had not seen any benefits to their communities as a result of this measure

### **Problems**

- The government has not told us the numbers of people in communities with pornography or how big an issue this is supposed to be in Aboriginal communities
- The pornography signs are affecting tourism and sending the wrong message to visitors about Aboriginal people
- Some outstations have signs while others don't - the measure not been applied consistently
- Pornography was not a big issue in communities until the Government made it one
- Why are these restrictions only being applied to prescribed communities and not to the pastoral leases next door?
- There is no support or money being poured into counselling or support programs for offenders. The intervention is all about land; grog and quarantining. GBMs are the only ones getting big money. What about our kids?
- The Trucking Yards town camp in Smith Street, Alice Springs is at one end of the street and at the other is a sex shop. The week the intervention commenced the sex shop had a grand opening. What message is that sending?

### **Improvements**

- Get rid of the signs



## **Five-Year Leases**

### **Summary**

Participants advised they were unable to provide advice on five-year leases as the appropriate traditional owners were not present at the meeting. They stated that all discussions on five-year leases should be directed through the relevant land council and associated traditional owner associations.

## **Community Stores**

### **Summary**

Participants noted the proposed changes and generally agreed that this measure had been beneficial e.g. range of goods in stores had improved since the NTER. However, they raised concerns about the high price of goods and the transfer of community stores ownership to the Shire under the local government reforms.

### **Benefits**

- There is more choice for people now in many community stores
- Stores are stocking more goods
- There is an opportunity through community stores for Indigenous people to gain employment and future training and development opportunities

### **Problems**

- The Stores Licensing Scheme also needs to be applied to station stores
- The price of nutritious foods in stores is too high. People cannot afford to buy fresh fruit and vegetables or nutritious foods
- The profits from some stores are not going back to community
- Prior to the intervention, the communities had ownership of their stores. Now many of the stores have been transferred to the Shire and operate without consultation or input from the local Aboriginal people
- There needs to be a partnership between the community and the Shire regarding the operation of the community's store
- The Shire doesn't always know what is best for Aboriginal people, people independent of the Shire need to have input.
- Stores are not stocking everyday items such as newspapers
- There has not been enough Government consultation with community members on community stores.
- There are no tobacco products being sold in Outback Stores at Yuendumu. People should have a choice.
- The problems with the Shires are impacting on community stores
- What happens to community stores when the Intervention ceases?
- There was no consultation or communication with the community on the take over of community stores by the Shires, even where the community owned the store
- The Shires are not listening to us and are just making a mess of everything

## **Improvements**

- There needs to be more work put into creating economies of scale for community stores in the same region. This could include having joint transportation arrangements with neighbouring community stores to assist in reducing freight costs; communities working together to secure bulk purchasing deals etc
- Licensing more than one store in the community may also help create competition and reduce prices
- Community residents should have joint management over their store, with their Shire Council
- There needs to be more employment and training of Aboriginal people to run community stores
- Stores should stock furniture to encourage people to purchase more white goods and other household items.
- There needs to be purchasing and distribution networks established to reduce operational overheads and the high price of goods in community stores.

## **Should community stores licensing be continued?**

- Generally it was considered that the stores licensing program should continue

## **Publicly Funded Computers**

### **Summary**

Participants stated that most of the organisations already had filters in place on computers. They noted the government's position on the measure and generally agreed with the proposed changes.

## **Law Enforcement Provisions**

### **Summary**

This topic was workshopped in gender sessions. Generally participants advised that they did not have enough knowledge of the ACC activities to make an informed decision and would have to seek legal advice before they could comment on whether the measure should be continued.

## **Business Management Powers**

### **Summary**

Workshop participants advised that the Government already had enough power and agreed with the Government's proposal to remove the Business Management Powers under the NTER.

## ATTACHMENT C

### GENERAL COMMENTS ABOUT THE NTER

The overwhelming majority of participants viewed the NTER as discriminatory and supported the government's proposal to reinstate the Racial Discrimination Act. Many participants reported they had only seen limited benefits to their communities as a result of the NTER measures and that many of the measures had simply created a new layer of disadvantage for Aboriginal people. Other comments include:

- Aboriginal people living in communities are suffering
- This is our land and we are getting kicked around like a football
- This has got to stop; you mob from Canberra forget that this is our land; this is wrong and you need to get it right
- Was the Commonwealth having a go at the NT Government when it created the Intervention? Who is responsible for delivering on the ground?
- The accusations of child abuse in the Little Children Are Sacred Report (LCASR) started in one community - not all communities. The story started at Uluru; this is all about one community
- Why hasn't the Government come out and told us about the numbers of people using pornography - where are these people?
- We all know that the Intervention came about from the LCASR, but there is no money allocated to support programs to help people/communities with kids that have been abused or people with alcohol problems
- With all the money the government has committed to the NTER, what has it fixed? More police are out there and the health checks have been done, but where is the housing and education?
- Doesn't anyone think that we are worried (about where all of this is going)? Where are our rights as the first peoples of this country? Do we not have rights to our land?
- We have asked the intervention mob to give us something for the kids in the Titjikala community such as a bus or swimming pool, but nothing's been done
- When the army came in, people were scared that they were coming to take the kids away
- Is the government saying 'you give me a little bit of land and we will give you a house? The government wants our land so they can do what ever they like with it
- The Howard Government said that under the Intervention, they would fix the houses. Since the change of government, nothing has happened
- Many of our people are educated in the white man's way - don't think that we are disadvantaged, we are not; we have our culture; we can go bush and eat our traditional tucker
- We want our rights back and the RDA restored
- Everyone in community is paying rent on houses - when will we be able to own our homes



**Australian Government**

**Department of Families, Housing,  
Community Services and Indigenous Affairs**

9 September 2009

Summary of Tier 3 NTER Workshop: Darwin

Dear Participant

Thank you for participating in the Northern Territory Emergency Response (NTER) Future Directions regional consultation workshop in Darwin 4-5 August 2009.

Attached is a summary of the workshop. This information will be used to inform the NTER Future Directions report, which is expected to be released to coincide with the legislation going to Parliament in the 2009 Spring sittings.

The Australian Government is committed to consulting with Aboriginal people in the Northern Territory to improve the NTER measures and would like to thank you for putting forth your ideas on possible ways forward.

Should you wish to add any comments to the summary please forward them either by email to [Lee-Anne.Barnes@fahcsia.gov.au](mailto:Lee-Anne.Barnes@fahcsia.gov.au) or by post to PO Box 7576, Canberra Business Centre, ACT 2610 or give them to your GBM. In order to be considered in the NTER Future Directions report these additional comments need to be with us by cob 16 September 2009.

*Jim Ramsay*

Director  
National Indigenous Rep Body Branch  
Indigenous Leadership and Engagement Group

# NTER Future Directions Tier 3 Regional Workshop

## Darwin

<b>Date</b>	4-5 August 2009
<b>Venue</b>	Holiday Inn Esplanade
<b>Staff</b>	Geoff Richardson; Jim Ramsay; Jacqueline Bethel; Gail Ah Kit; Lee-Anne Barnes, Dianne Collins and Sarah Fowler.

### Participants

Participation at the workshop was open to all community members in Darwin, town camps and the surrounding regions. People wishing to participate were required to register their interest with the local Government Business Managers (GBMs) or Indigenous Engagement Officers. Approximately 45 people attended. Participants were from: Daly River; Nguiu (Bathurst Island); Acacia Larrakia; Warrawui (Goulburn Island); Darwin town camps – Bagot and Knuckey's Lagoon; Wadeye (Port Keats); Minjilang (Croker Island); Garden Point; Maningrida; Peppimenarti; Pirlangimpi; Nguiu, Belyuen; and Palumpa.

### Format of the Meeting

The workshop was conducted over two days. It was structured to provide participants with detailed information on the Government's position on the Northern Territory Emergency Response (NTER) as detailed in the Future Directions Discussion Paper, including:

- its intention to table legislation in the Spring Sitting of Federal Parliament to restore the *Racial Discrimination Act 1975* (RDA); and
- changes proposed to individual measures to improve the workability of the NTER.

The government's position on each measure was fully explained to participants. The level of awareness of the Discussion Paper was low to medium.

A copy of the agenda is at **Attachment A**. Each information session was followed by a workshop using the specific questions from the Discussion Paper and a plenary session which engaged the whole group into discussion about the future directions of the NTER. Participants chose to respond to questions regarding Publicly Funded Computers and Restrictions on Pornography in separate gender group discussions.

Participants were advised that the government has engaged a consultancy firm to ensure that the consultations are conducted in a transparent and professional manner.

A summary of the workshop responses to each of the measures is at **Attachment B**.

A summary of the general comments about the NTER is at **Attachment C**.

## **Feedback**

Geoff Richardson advised all participants that:

- the consultations will continue in communities until the end of August 2009;
- the government will then make a decision on how it will redesign the NTER measures;
- the legislation will be drafted and tabled in Parliament in October 2009; and
- the report on the consultations will be prepared and released to the public in October 2009.

The workshop ended with separate men's and women's meetings. Reports of these meetings have been lodged with the Government.

## DARWIN 4–5 AUGUST 2009

## DAY ONE

TIME	NO.	ITEM	FACILITATOR
08.30 – 09.00	1.	<b>Registrations</b>	
09.00 – 10.30	2.	<b>Opening</b> <ul style="list-style-type: none"> <li>• Welcome to Country</li> <li>• Introductions/Housekeeping</li> <li>• Purpose - The Consultation Process <ul style="list-style-type: none"> <li>- Background to the NTER</li> <li>- The Government's Position</li> </ul> </li> </ul> <b>Questions and Answers</b>	Geoff Richardson
10.30 – 11.00		<b>MORNING TEA</b>	
11.00 – 12.30	3.	<b>NTER Review</b> <ul style="list-style-type: none"> <li>• Key Recommendations</li> <li>• Government response</li> </ul> <b>The National Picture</b> <ul style="list-style-type: none"> <li>• Key points about the NTER</li> </ul> <b>The Major Benefits</b> <ul style="list-style-type: none"> <li>• Overview of the major achievements</li> </ul> <b>Racial Discrimination Act 1975 (RDA)</b> <ul style="list-style-type: none"> <li>• The NTER and the RDA</li> <li>• The Government's commitment</li> </ul> <b>Question and Answers</b>	Jim Ramsay
12.30 – 1.30		<b>LUNCH</b>	
1.30 – 3.00	4.	<b>The Measures – Income Management</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> <li>• Workshop session</li> </ul>	Geoff Richardson

3.00 – 3.30		<b>AFTERNOON TEA</b>	
3.30 – 4.00	5.	<b>Income Management</b> <ul style="list-style-type: none"> <li>• Feedback session</li> </ul>	Geoff Richardson
4.00 – 5.00	6.	<b>The Measures – Law Enforcement/ Business Management Powers</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> <li>• Workshop session</li> <li>• Feedback session</li> </ul>	Geoff Richardson
5.00		<b>CLOSE</b>	



# DARWIN 4-5 AUGUST 2009

## DAY TWO

TIME	NO.	ITEM	FACILITATOR
09.00 – 09.15	7.	<b>Recap of Day One</b>	Jim Ramsay
09.15 – 10.30	8.	<b>The Measures – Alcohol</b> <ul style="list-style-type: none"><li>• Purpose</li><li>• Progress to-date</li><li>• The Government's position</li><li>• Workshop session</li><li>• Feedback session</li></ul>	Jim Ramsay
10.30 – 11.00		<b>MORNING TEA</b>	
11.00 – 12.30	9.	<b>The Measures – Five-year Leases</b> <ul style="list-style-type: none"><li>• Purpose</li><li>• Progress to-date</li><li>• The Government's position</li><li>• Workshop session</li><li>• Feedback session</li></ul>	Geoff Richardson
12.30 – 1.30		<b>LUNCH</b>	
1.30 – 3.00	10.	<b>The Measures – Community Stores</b> <ul style="list-style-type: none"><li>• Purpose</li><li>• Progress to-date</li><li>• The Government's position</li><li>• Workshop session</li><li>• Feedback session</li></ul>	Jacqui Bethel
3.00 – 3.30		<b>AFTERNOON TEA</b>	
3.30 – 4.30	11.	<b>Men/Women Meetings</b> <ul style="list-style-type: none"><li>• Restrictions on Pornography</li><li>• Publicly Funded Computers</li><li>• Other issues</li></ul>	Jim Ramsay Jacqui Bethel

4.30 – 5.00	12.	<b>Plenary Session:</b> <ul style="list-style-type: none"><li>• Major Messages for Government</li><li>• The Way Ahead – Future Developments</li><li>• Evaluation</li><li>• Acknowledgements and close</li></ul>	Geoff Richardson
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## THE MEASURES

### Racial Discrimination Act 1975 (RDA)

#### Summary

There was strong support for the government's decision to reinstate the RDA. Participants considered the NTER discriminatory as it only applied to Aboriginal people in prescribed communities in the Northern Territory (NT) and should have been applied Australia wide. There was also concern as to what would happen to Aboriginal people in prescribed communities if the legislation did not pass through the Parliament.

#### Comments

- We want the RDA reinstated.
- The NTER is just targeting Aboriginal communities in the NT.
- People in other States have not been targeted, yet they have the similar issues.
- Some of the government's proposed changes are contradictory, as some of the measures have brought benefits to communities.

### Income Management

#### Summary

Participants noted, but did not support either of the compulsory IM models proposed in the NTER Future Directions Discussion Paper. Many recognised there had been benefits to people in prescribed communities as a result of IM. However, there was strong opposition to the measure continuing in its current form on the grounds that it discriminated against Aboriginal people in the NT.

A voluntary IM model with triggers for people who fail to send children to school; neglect or abuse children; and misuse or abuse alcohol or other drugs was the preferred option.

#### Benefits

- More people are buying food, clothing for kids and spending money on personal items.
- Single women are learning how to budget and buying more household goods.
- There is less alcohol consumption and violence in communities.
- Elderly people get to leave their money on their store card so they are not being humbugged as much.
- There is less theft of old people's money. Carers used to cash people's pension cheques and use the cash for their own purposes. Under IM this doesn't happen (as often).

#### Problems

- Income Management (IM) should not just be targeted toward prescribed Aboriginal communities in the NT - it should be Australia-wide.
- There are only a limited number of outlets that accept the BasicsCard.

- People cannot take advantage of groceries or clothing specials in stores that do not accept the BasicsCard.
- People do not have cash to attend funerals; cultural; or family business.
- The Centrelink BasicsCard system is unreliable and does not operate on weekends so people often cannot purchase food - sometimes for days at a time.
- The BasicsCard and the ALPA card in the Arnhem Land region and Melville Island is causing confusion, especially for old people who are required to have two PINs.
- Centrelink does not provide services to smaller communities or outstations. They also do not know how to communicate with old people who do not speak 'good' English.
- Parents do not have cash to send kids on school excursions or to the circus or the 'show', because of the IM and the BasicsCard system
- There are inconsistencies around what you can and can't do with the BasicsCard e.g. People travelling on the ferry to Darwin cannot use their BasicsCard to pay for tickets, but those travelling to the Tiwi Islands can.
- Centrelink services are not available 24 hours a days and there are no machines in communities for people to get balances or transfer funds after hours.
- People are having their BasicsCards rejected at shop counter as their balances are showing up as zero, even after Centrelink advise they have funds available. This is embarrassing and the government needs to fix it.
- Replacement of lost or stolen BasicsCards often takes several weeks. In the interim people are reliant on relatives to support them which puts further pressure on families.
- Courts do not accept the BasicsCard for fines so people are being sent to gaol as they do not have the cash to pay.
- This measure is creating divisions between Aboriginal people who are on IM and those that are not. It is also contributing to racist behaviour targeted toward Aboriginal people e.g. shop keepers, other customers
- This measure is just causing dependency. What happens when the NTER stops, we will just have to learn to budget again?
- BasicsCards cannot be used to help kids at boarding school purchase food and other personnel items.
- Income Management (IM) is discouraging people from taking on CDEP positions. Prior to 1 July 2009 CDEP workers got their full salary. Now people who join the program have their money income-managed so people in communities are saying, 'I'm not working if I'm going to be income-managed'.

## **Improvements**

- Make IM voluntary. People should have the right to choose.
- Parenting payments should be paid out over a year in weekly payments not lump sums.
- Half of the Baby Bonus money should be paid in cash and the other half placed in the BasicsCard for essential items.
- Compulsory Income Management (IM) should be applied Australia-wide. Otherwise it should be made voluntary. and not be targeted at Aboriginal people in the NT.
- Income Management (IM) should only apply to parents who neglect children or those who do not know how to budget. It shouldn't apply to everyone.
- Old people on income support payments shouldn't be income-managed as their children have all grown up and left home.
- People living in the long grass should be on IM. Why is it only applied to people in prescribed communities?
- People should receive their income support payments weekly.
- People who move interstate should not have to continue on IM.
- Families with children at boarding school should be able to allocate a portion of IM funds in cash to kids for personal items, uniforms and/or sporting events.
- Adults that are studying should be able to get travel and other funds in cash as they can not use their BasicsCard interstate.

## **Comments**

- When the intervention started, the government should have talked to community leaders and elders and targeted the people in communities that needed IM. This is why there is uproar. The government should have consulted and only targeted the measure toward those that needed it.
- Why were only aboriginal communities targeted? This measure is racist and humiliating.
- Not all women want IM - the government needs to stop saying we do. This is not a gender issue. Men and women agree that IM should only apply to those people doing the wrong thing with their income support payments.
- Young mothers are leaving their kids with the grandparents. Centrelink should be doing more to ensure the mother's income support payments are directed to the grandparents or those who have children in their care.
- FaHCSIA have not been effective or efficient. I won't speak on behalf of all communities but in Daly River this has certainly been our experience. Who is monitoring what is going on with the NTER and coordinating activities?
- How are people to understand about the exemptions proposed under Options 1 and 2 in the Discussion Paper when they don't even know how to use the BasicsCard.
- What happens after the intervention ceases? People just have to learn about how to manage their money all over again.
- If the terms of IM are not going to be reviewed, why are we being consulted? The decision has already been made and now the government decides to consult?
- Who is going to do the IM assessments under Option 1 in the Discussion Paper? Centrelink does not have the level of knowledge of communities or the people that live in them to do assessments for IM.

- We do not know the assessment criteria for what is being proposed for the new IM compulsory model, so how can we decide?
- There are no Aboriginal interpreters in Centrelink Call Centres.
- BasicsCards should be able to be used in the same manner as other debit and credit card.
- Centrelink services are not effective and need to be improved.

### **Continuation**

No, not in its current form. It should be a voluntary trigger model.

## **Law Enforcement**

### **Summary**

Participants had very little knowledge of the Australian Crime Commission and the National Indigenous Violence and Child Abuse Taskforce and therefore were unable to identify any benefits arising from the measure. Generally participants advised they wanted child abuse dealt with; however, the information in the NTER Future Directions Paper on the Law Enforcement measure would need to be translated before they could provide input as it was not comprehensible to the majority of participants.

### **Comments**

- All of the law enforcement agencies should come together and act as one.
- Aboriginal people get confused when they have to go from one organisation to another.
- Some of our old people don't understand the language in the Discussion Paper. This needs to be interpreted before we can comment further.

## **Business Management Powers**

### **Summary**

Participants noted the proposed changes, but advised that the Business Management Powers allowing Government to stop funding to an organisation which was not performing, should remain in the NTER legislation.

# Alcohol Restrictions

## Summary

Participants noted the government's position and generally agreed that Alcohol Management Plans should be individually negotiated with communities. It was generally considered there was less violence in communities as a result of alcohol restrictions. However, the majority of participants considered blanket restrictions were not working and that the problem had simply be forced into outlying areas and nearby townships without any of the causal issues being addressed.

## Benefits

- There is less violence in some communities.
- Parents have more money for kids as they are not spending it on alcohol.
- Communities are safer.
- It is helping to keep the culture strong.
- Community members are working.
- We get a good nights' sleep.
- There is reduced consumption of grog which has the potential to reduce the number of suicides.

## Problems

- The restrictions are just pushing people into other areas to drink.
- We feel sad that some of our people have to go somewhere else to drink as they just end up in the long grass and can't get home.
- There has been no change in the amount of alcohol being consumed in town camps.
- There are more people from remote communities travelling to Darwin to drink as a result of the 'intervention'.
- There are problems with outsiders coming into communities and not abiding by the rules e.g. people coming into the Bagot community.
- The alcohol signs do not work – not stopping people from drinking or coming into communities to drink.
- There is one law for blackfellas and one for whitefellas.
- Permits are only given to non-Indigenous people.
- Non indigenous people are bringing grog into communities.
- People are drinking on the highways which is causing more accidents on the roads.
- More visitors from communities are coming into town camps with grog.
- There are no (additional) rehabilitation services available for people that have a drinking problem.
- Night Patrol services and police are not working collaboratively. They need to coordinate their activities more effectively.

## **Improvements**

- There needs to be more alcohol rehabilitation and support services available for drinkers.
- We need both individual and urban community Alcohol Management Plans.
- There needs to be more recreation activities in communities so that people have other activities to participate in apart from drinking.
- The police should support communities in setting up sporting activities in communities.
- Resource the Night Patrol so they can 'police' who comes in and out of their communities.
- Each community should set it own rules for alcohol restrictions; Alcohol committees should be established to set the rules and work with police to ensure they jointly enforce plans.
- The police and Night Patrol services should be working together to solve these issues.
- Use outstations for alcohol rehabilitation and support services.
- If communities don't want grog then it should be banned for all. There should be no permits.
- There should be more police patrols in communities.
- Communities would benefit if there were controlled drinking areas.
- Allow alcohol take-away services within communities so people can drink at home.
- Traditional Owners should be making the decision on who can or cannot have a permit to drink in communities.

## **Comments**

- In Daly River if we have a problem with alcohol we call in the publican to sort it out.
- If there is humbugging the community deal with it.
- How can we control the police? Who is monitoring them?
- There is a committee in Daly River that decides if a person is allowed to have takeaway from the pub and drink at their houses. The current police officer wants to close the pub over an incident that happened some time ago – which was not a regular occurrence. The pub brings \$1m dollars into the community each year.
- Police officers for communities need to be carefully selected and have cultural awareness training in the community they are assigned. The previous policeman we had in Daly River would sit outside the pub in his car and people would quiet down. The one we have now comes in 'blazing'.
- Aboriginal people are still being unfairly targeted.
- The government needs to change the Federal Constitution to include Aboriginal people. We should have the same rights as white Australians.
- Why are the tourists allowed to take alcohol on their boat but Aboriginal people are not? It is our community and the law should apply to everyone. White people should not be allowed to drink in communities either.
- People are sick of restrictions.
- Because of the restrictions on communities people don't know where they can drink.
- There is no alternative but to monitor people and their drinking. Drinking is still going to continue, it is a disease, so why not make a law that works.



- People drinking by the roadside are going to get killed unless the government puts something into place to stop this. There needs to be a place for people to drink on communities.
- Other people bring alcohol into the community but the police come to our house and target us. This is embarrassing as we don't drink.
- People are concerned about the alcohol permit system, as the Tiwi people cannot get a permit but the white people can.
- In the Tiwi Islands only Aboriginal people's bags are checked for alcohol, white people's bags do not get checked.
- People from Wadeye are travelling to Daly River and Peppimenarti to drink some have been killed (in traffic accidents). Why don't we allow permits for our local people to drink in their own communities?
- The government took away the night patrol service in Bagot community when it was working well. Now there is nobody to police the gates to ensure that grog isn't coming in.

### **Continuation**

- Restrictions should not be continued.
- This is just forcing drinkers to other areas and not solving the problem.
- There needs to be more consultation with individual communities – one size does not fit all.

## **Five-Year Leases**

### **Summary**

Participants generally stated they had not seen any benefit to communities as a result of five-year leases and that despite being two years into the 'intervention', there had been no new houses built. They considered that discussions on leases should be with traditional owners.

### **Benefits**

- There are no benefits to Aboriginal people in five-year leases.
- People do understand the five-year leases as the government has failed to consult with communities and traditional owners.

## **Problems**

- Government took out five-year leases but has not delivered on housing in communities.
- Minjilang has been hit three times by cyclones and still nothing was done to improve their housing.
- There needs to be proper roads, infrastructure and housing in communities.
- Local Aboriginal people should be involved in building and maintaining houses and given job opportunities and contracts.
- The government should be giving more control to local people.
- Aboriginal people wanting to start businesses are being prevented from doing so by the five-year leases.
- Nobody understands the terminology behind these leases. We need to be educated.
- There have been no consultations with the Traditional Owners of communities.
- This whole process has been too slow; it has now been two years and we still have no houses built.
- All of the money is being spent on consultants, not houses.

## **Improvements**

- There needs to be proper consultation on leases and education on the legal terminology surrounding leases and agreements.

## **Comments**

- We want the 'white man' from Canberra who is making these laws to come and talk to us about these issues.
- We have no country left to go walkabout because of these leases.
- Why are other people making decisions about our country?
- We are two years into the intervention and nobody from the government has come to talk to us about leases.
- Back in 1971 the government promised that Aboriginal families would live in every third house in Ludmilla. This promise was never kept either.
- Bagot community never got any compensation from the government. Where is the money the government has promised?
- We can't even go to the Shires for help because they work for the NT Government.
- Not one house has been built in the NT. Where are our houses?
- Aboriginal people should be building these houses. The government should be training our young people and allowing them to get certificates/qualified.
- Before we sign any long term leases, we need to understand the five-year leases.
- How are we supposed to know what we are signing when we don't know what a lease is?

## **Continuation**

- No. We want our land back.
- We don't want the government to control our land with five-year leases.

## **Community Stores Licensing**

### **Summary**

Participants generally agreed there had been benefits to communities as a result of the licensing of Community Stores. The high price of goods, particularly fresh fruit, vegetables and fuel was considered a major issue in all communities. People stated that while they would have liked to have purchased more healthy foods, fruit and vegetables were generally not affordable. It was also considered that store opening hours and Aboriginal employment and training initiatives should be included as conditions of license.

### **Benefits**

- There has been a better range of stock in stores.
- The cleanliness and general operation of the stores has improved.
- Stores can provide employment opportunities for community members.
- Some stores have had new infrastructure, fridges and freezers for frozen foods.

### **Problems**

- Store opening hours are not long enough. It should be a condition of license that stores open for a set number of hours each day.
- Selected items such as toys, are only made available at Christmas - they should be available all year round.
- There is not always fresh food available in stores.
- BasicsCards should not be able to be used to purchase greasy take-away food. If there is no good food available in a store, it should not be licensed.
- Some stores are not providing nutritious foods for the kids.
- There is no community input to how stores are managed.
- The people running the store in Wadeye will not let kids inside the store. This needs to be addressed through the license.
- We need more Aboriginal people to work in the store. Employment of Aboriginal staff should be a condition of license.
- There is no funding for community stores e.g. Bagot Store is under resourced.
- There are no home deliveries for old people.
- The 'fresh' food is not actually fresh but full of chemicals that keep it 'fresh' for transportation.
- The prices in community stores are expensive and are getting higher.
- In Nguiu, fresh fruit and veggies are only delivered one day a week so by the time people's pay day comes around, the fresh food has gone off. We need fresh food to arrive on pay days and be delivered more frequently.
- There is a need for people in FaHCSIA to have the knowledge (store experience) to run the Community Stores program.
- If children go to the take-away or store in Nguiu during school hours the store operator closes the store. This is unfair and needs to be addressed through the licensing as it is not supported by the community and inconveniences people.

## **Continuation**

Yes.

## **Pornography**

### **Summary**

Participants advised they did not want pornographic material in their communities; however, considered the signage offensive and wanted it removed. Many people advised the policy was flawed as it did not block the purchase or supply of porn in nearby townships and failed to exclude broadcasting of sexually explicit material into prescribed areas via television and the internet.

There was concern the measure was also sending the wrong message to tourists and contributing to Aboriginal men being unfairly labelled as sex offenders.

### **Comments**

- We want pornography and child abuse dealt with.
- The pornography signs need to be removed. These signs just appeared from nowhere and have given people the wrong impression of Aboriginal communities and Aboriginal men. This has just been one big propaganda campaign.
- All Aboriginal people have been branded as sex offenders because of the intervention.
- Men in our communities have been labelled as child abusers but don't even know what it is they are supposed to have done. No-one has explained what was in the Little Children Are Sacred Report.
- There has been no education in communities on sexual abuse or pornography so people don't even understand the meaning of these words.
- Nguuu is not on Aboriginal Land they are on Church land, but FaHCSIA still came in and put pornography signs up in the community without consulting.

## **Publicly Funded Computers**

### **Summary**

Participants stated most organisations already had filters installed on computers and generally agreed this should continue.

## NTER GENERAL COMMENTS

### 1. Community Development Employment Program (CDEP)

- The problem in Aboriginal communities is employment. We were doing well when we had CDEP. Now that CDEP has been taken out of urban areas 400 people have lost their jobs and none of them have been re-employed.
- People were put through a six week intensive building course under CDEP and none of them got a job at the end of it.
- There needs to be more jobs created in communities.

### 2. Housing and Accommodation

- The government needs to provide more details on where houses are going to be built in communities. If this level of information was provided, people would have something to look forward to.
- There is accommodation in communities for GBMs but none for community members. GBM were asked to leave the containers as they were poisoned. Now the government has asked communities if they want them. Why would the government not allow GBMs to live in the containers, but allow Aboriginal people to?
- These containers are at the entrance to communities and are an eyesore for tourists. They need to be removed.

### 3. Permit System

- People are disrespecting and damaging sacred burial sites since the permit system was discarded.
- We want the permit system back. It is the only thing we have to protect us.
- The government has opened the gate to Aboriginal communities for drug runners and paedophiles by removing the permit system.
- People just do whatever they want in communities now because there is no permit system in place.

### 4. Drug and Alcohol Issues

- A lot of young people have already taken their own lives. This all relates to grog and drugs. What does a young person have to look forward to in communities?
- There needs to be prevention programs put in place for youths with drug and alcohol issues.
- Mental health workers are supposed to be employed by the NT Government yet people are still trying to kill themselves. Some young people have made five or six attempts.
- In my mind the intervention is not working.

## **5. Stolen Generation**

- When you have a white father and an Indigenous mother, you are not accepted in communities. 'Half-caste' people were taken away from communities. The government said they were going to look after the Stolen Generation. Why have we not heard anything? What is happening? We need reconciliation.
- The government still hasn't recognised what happened in World War II and how the children were taken away to Crocker Island.

## **6. NT Police**

- The government needs to make sure that police placed in communities know how to work with Aboriginal people. Police need to be educated in cultural awareness in the region they are located and work with communities to build trust. The police shouldn't be doing whatever they like (which is what they are doing now).

## **7. Shires**

- Nobody knows what the Shires are about or what they are doing. There was no consultation on local government reforms.
- The Shires are using people on CDEP, when they should be creating real jobs for community people.
- The Daly River Shire took over CDEP assets as part of the local government reforms but now that an Aboriginal corporation has won the contract for CDEP the Shire is trying to charge the corporation rent to use what were CDEP assets.
- When training is organised in communities there are no jobs for people at the end of it. Some people were put through security training for crowd control so they could work at festivals, nightclubs and bars but were not told they needed to have a police clearance before they could get a job. Even though these people successfully completed the course and received a certificate they weren't able to be employed because they had minor infringements.
- Police checks are holding people back from training and employment. These should be done before people attend training so they know if they will qualify for the job.
- The only way that you are going to get Indigenous people to do training is if the training is conducted in communities.
- Since the Shires have been introduced there is a void in communities. People still don't realise that the Shire is separate to the 'intervention'.
- We are doing our best to get a governing body set up in communities as the Shire is not supporting community members.

## **8. Safe Houses**

- There should be both men's and women's safe houses in each community.
- We need more investment from the NT Government and the Commonwealth into safe houses.
- If someone does something wrong in our community it is dealt with through our skin groups. The women talk to the women and the men to the men according to the right skin groups and sort out what should happen.



**Australian Government**

**Department of Families, Housing,  
Community Services and Indigenous Affairs**

4 September 2009

Summary of Tier 3 NTER Workshop: Katherine

Dear Participant

Thank you for participating in the Northern Territory Emergency Response (NTER) Future Directions regional consultation workshop in Katherine on 11-12 August 2009.

Attached is a summary of the workshop. This information will be used to inform the NTER Future Directions report, which is expected to be released to coincide with the legislation going to Parliament in the 2009 Spring sittings.

The Australian Government is committed to consulting with Aboriginal people in the Northern Territory to improve the NTER measures and would like to thank you for putting forth your ideas on possible ways forward.

Should you wish to add any comments to the summary please forward them either by email to [Lee-Anne.Barnes@fahcsia.gov.au](mailto:Lee-Anne.Barnes@fahcsia.gov.au) or by post to PO Box 7576, Canberra Business Centre, ACT 2610 or give them to your GBM. In order to be considered in the NTER Future Directions report these additional comments need to be with us by cob 16 September 2009.

*Jim Ramsay*

Director  
National Indigenous Rep Body Branch  
Indigenous Leadership and Engagement Group



# NTER FUTURE DIRECTIONS TIER 3 REGIONAL WORKSHOP KATHERINE

<b>Date</b>	11-12 August 2009
<b>Venue</b>	Knotts Crossing Resort
<b>Staff</b>	Geoff Richardson; Jim Ramsay; Jacqueline Bethel; Gail Ah kit; Dianne Collins; Sarah Fowler.

## Participants

Participation at the workshop was open to all community members in Katherine, town camps and the surrounding regions. People wishing to participate were required to register their interest with the local Government Business Managers or Indigenous Engagement Officers. Approximately 45 people attended the meeting. Participants were from: Binjari, Kalano, Roper Valley, Manyallaluck, Beswick, Barunga, Kalkarindgi and Kybrook Farm.

## Format of the Meeting

The workshop was conducted over two days. It was structured to provide participants with detailed information on the Government's position on the Northern Territory Emergency Response (NTER) as detailed in the Future Directions Discussion Paper, including:

- its intention to table legislation in the Spring Sitting of Federal Parliament to restore the *Racial Discrimination Act 1975* (RDA); and
- changes proposed to individual measures to improve the workability of the NTER.

The government's position on each measure was explained to participants. The level of awareness of the Discussion Paper was low to medium.

A copy of the agenda is at **Attachment A**. Each information session was followed by a workshop using the specific questions from the Discussion Paper and a plenary session which engaged the whole group into discussion about the future directions of the NTER. Participants chose to respond to questions regarding Publicly Funded Computers and Restrictions on Pornography in separate gender group discussions.

Participants were advised that the government had engaged a consultancy firm to ensure that the consultations were conducted in a transparent and professional manner and that Anne Redmond, a representative of the firm (CIRCA), would be participating in the workshop.

A summary of the workshop responses to each of the measures is at **Attachment B**.

A summary of the general comments about the NTER is at **Attachment C**.

## **Feedback**

Geoff Richardson advised all participants that:

- the consultations will continue in communities until the end of August 2009;
- the government will then make a decision on how it will redesign the NTER measures;
- the legislation will be drafted and tabled in Parliament in October 2009; and
- the report on the consultations will be prepared and released to the public in October 2009.

The workshop ended with separate men's and women's meetings. Reports of these meetings have been lodged with the Government.

## KATHERINE 11–12 AUGUST 2009

## DAY ONE

TIME	NO.	ITEM	FACILITATOR
08.30 – 09.00	1.	<b>Registrations</b>	
09.00 – 10.30	2.	<b>Opening</b> <ul style="list-style-type: none"> <li>• Welcome to Country</li> <li>• Introductions/Housekeeping</li> <li>• Purpose - The Consultation Process <ul style="list-style-type: none"> <li>- Background to the NTER</li> <li>- The Government's Position</li> </ul> </li> </ul> <b>Questions and Answers</b>	Geoff Richardson
10.30 – 11.00		<b>MORNING TEA</b>	
11.00 – 12.30	3.	<b>NTER Review</b> <ul style="list-style-type: none"> <li>• Key Recommendations</li> <li>• Government response</li> </ul> <b>The National Picture</b> <ul style="list-style-type: none"> <li>• Key points about the NTER</li> </ul> <b>The Major Benefits</b> <ul style="list-style-type: none"> <li>• Overview of the major achievements</li> </ul> <b>Racial Discrimination Act 1975 (RDA)</b> <ul style="list-style-type: none"> <li>• The NTER and the RDA</li> <li>• The Government's commitment</li> </ul> <b>Question and Answers</b>	Jim Ramsay
12.30 – 1.30		<b>LUNCH</b>	
1.30 – 3.00	4.	<b>The Measures – Income Management</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> </ul>	Geoff Richardson

		<ul style="list-style-type: none"> <li>• Workshop session</li> </ul>	
3.00 – 3.30		<b>AFTERNOON TEA</b>	
3.30 – 4.00	5.	<b>Income Management</b> <ul style="list-style-type: none"> <li>• Feedback session</li> </ul>	Geoff Richardson
4.00 – 5.00	6.	<b>The Measures – Law Enforcement/ Business Management Powers</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> <li>• Workshop session</li> <li>• Feedback session</li> </ul>	Geoff Richardson
5.00		<b>CLOSE</b>	

# KATHERINE 11-12 AUGUST 2009

## DAY TWO

TIME	NO.	ITEM	FACILITATOR
09.00 – 09.15	7.	<b>Recap of Day One</b>	Jim Ramsay
09.15 – 10.30	8.	<b>The Measures – Alcohol</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government’s position</li> <li>• Workshop session</li> <li>• Feedback session</li> </ul>	Jim Ramsay
10.30 – 11.00		<b>MORNING TEA</b>	
11.00 – 12.30	9.	<b>The Measures – Five-year Leases</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government’s position</li> <li>• Workshop session</li> <li>• Feedback session</li> </ul>	Geoff Richardson
12.30 – 1.30		<b>LUNCH</b>	
1.30 – 3.00	10.	<b>The Measures – Community Stores</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government’s position</li> <li>• Workshop session</li> <li>• Feedback session</li> </ul>	Jacqui Bethel
3.00 – 3.30		<b>AFTERNOON TEA</b>	
3.30 – 4.30	11.	<b>Men/Women Meetings</b> <ul style="list-style-type: none"> <li>• Restrictions on Pornography</li> <li>• Publicly Funded Computers</li> <li>• Other issues</li> </ul>	Jim Ramsay Jacqui Bethel

4.30 – 5.00

12.

**Plenary Session:**

- Major Messages for Government
- The Way Ahead – Future Developments
- Evaluation
- Acknowledgements and close

Geoff Richardson

### THE MEASURES

#### Racial Discrimination Act 1975 (RDA)

##### Summary

There was overwhelming support for the government's decision to reinstate the RDA. Participants considered the NTER to be discriminatory and that the measures violated their basic human rights and encouraged racist sentiments and mistreatment of Aboriginal people both in their communities, and in the townships.

##### General Comments

- Why is the intervention in place? They put it in place and blamed us Aboriginal men (and our women) for a lot of this stuff.
- The government cannot racially discriminate against anyone in this country. This legislation was passed through the Senate against Aboriginal people. We've been accused of a lot of things but no-one has been taken to court.
- We need to get this RDA back; Katherine has changed - one of our mob got picked on by a policeman and now our entire mob don't get along with white people; I want to cry because of the way we are treated in this town; the government is treating our people the wrong way - we need to speak up; we don't want our children and future generations to be in the same boat that we were in as children - we must all speak with one voice
- If the government continues the NTER we will have to seek assistance from the United Nations (UN) and sue the government. They are destroying our customary lore; traditional ways; culture. That is the last thing open to us - if the government does not listen to us we will have to go to the UN.
- The government is discriminating against our people; the intervention has taken us back to when I was a little boy.
- The intervention hasn't been done properly; the government is racist. I don't know why they took the RDA out. It is very sad for Aboriginal people.
- I want my children to learn literacy and numeracy but our culture is also important to us - we have language and culture, without it we are nothing. We have to fight for our land and our culture; we are human beings.
- At Kalano community the government just came in and overruled us.
- The government says they are going to roll back the intervention, but it is too late, the damage has been done.
- Our people don't understand all of this; all they know is the hurt the intervention is causing them.
- We need the RDA restored by the next sitting of parliament.

## **Income Management (IM)**

### **Summary**

Participants noted, but did not support the two IM options in the Discussion Paper. There was strong opposition to the measure continuing in its current form. A voluntary IM model with triggers for people who do not manage their money or create problems in communities, was the preferred model.

### **Benefits**

- People are buying more food, clothes, white goods, household goods; also are able to buy cars, pay for bus fares, fuel; people are paying their bills
- Some people are saving money.
- Not as much humbug from family members.
- IM can be used for the School Nutrition Program.
- Families are buying more healthy food.
- Less money is spent on grog and gambling.
- Pensioners can control their money.

### **Problems**

- Why has the government excluded possibilities like voluntary income management from the NTER Discussion Paper? There are only two options presented. What about a voluntary system?
- Income management can be either voluntary or triggered by behaviour. Having a voluntary system or behavioural triggered system are very important alternatives for people. Government should have outlined this in the NTER Discussion Paper.
- Centrelink ask too many questions when customers requires money from the BasicsCard; everyone needs to provide identification and a birth certificate; Centrelink is controlling bonus and loan payments.
- Centrelink are not communicating effectively with people. Particularly those who have difficulty with English.
- People have to travel long distances to go to Centrelink.
- My concern is the BasicsCard. It is very hard for people to learn how to use it. It is hard for old people to go and do their shopping themselves with the BasicsCard. They need help. We are all suffering because of the BasicsCard. The government has put us on the BasicsCard to rule us.
- Centrelink isn't acting fast enough to solve problems. We get a lot of people complaining about Centrelink, particularly about the time it takes to get their money transferred from their banks to their BasicsCard.
- People cannot use the BasicsCard to pay for transport to take white-goods back to their community.
- People can't use the BasicsCard to attend the 'show'.
- The BasicsCard cannot be used interstate - this is a big problem when we need to travel.
- Many of our kids go to boarding school but we can't send them money, so they end up coming home.
- Old people are unable to go to the shops to use their BasicsCard; old people need assistance to find out about their money.
- The BasicsCard cannot be used for taxi fares.



- We are confused. Under IM, we have gone from a voucher card to BasicsCard
- There are only a limited number of shops/outlets that accept the BasicsCard.
- Sometimes the card doesn't work due to technical problems.
- People have difficulties tracking expenditure on the BasicsCard
- People don't remember their PIN numbers for their BasicsCard - it is very hard for old people in particular to remember all the numbers.
- The BasicsCard makes it hard for people to manage their own cash.
- Income Management (IM) takes away our rights and responsibility.
- People are trading their BasicsCard for cash.
- We come from remote areas and we have old people that know nothing about the BasicsCard. It should be made clearer.
- There is not enough cash available for people on dialysis and or health issues to travel to and from communities for medical treatment. They have to move to town, but don't get support from Dept of Health. They are living away from families and suffering. Once they spend their fortnightly money from the BasicsCard, they go hungry.
- People need access to our cash so they can pay for funerals.
- We need training and education (about money management).
- You cannot pay court fines with the BasicsCard.
- The BasicsCard can't be used for kids to go to the pool, cinema or to get food from roadhouses.
- It is discriminatory and embarrassing if there are no funds in your BasicsCard.
- The card can't be used to lay-by goods.
- We are concerned about money for next year; our bonuses will come through at the same time or after the Katherine 'show', meaning the kids will not be able to attend the show. The government should allocate some funds (from these payments) to enable parents to send their kids to the 'show'.
- We want the BasicsCard and compulsory IM to stop.

### **Improvements**

- Half or a third of the funds should go to the kids.
- We support a voluntary, trigger model for IM; the other two options aren't any benefit to us.
- Increase Centrelink benefits/payments.
- There needs to be more consultations. The lack of consultation is horrid.

### **Other Comments**

- How is a compulsory system of money management supposed to give people the skills to manage their money? Will there be any training programs to help people to become financially literate?
- How are they going to know which people need or want IM and which don't? How will they ever know? Communities are not all the same; one size does not fit all.
- We know who the people in our community are that need to be income-managed. The government has just branded us all a problem.
- If you are an Aboriginal living in a community you are income-managed, but if you are an Aboriginal person living in a town you don't get income managed. Why? This is unfair.
- The 'rivers of grog' the government goes on about is an exaggeration. There is no such thing as rivers of grog in remote communities.

- I couldn't buy any tucker with my BasicsCard when I was in Canberra and Sydney - because the card can only be used in the NT.
- You've got to look at this pornography, income management, and permit system. Don't tar everyone with the same brush; the blanket approach to IM which blames everybody is not right.
- If I went and moved into Darwin IM would still follow me - it is discriminating against us.
- You can't use BasicsCards interstate even though Centrelink is telling people they can. While I was in Melbourne I got my Baby Bonus money which was 100 per cent income managed. I had to ring Centrelink to find out how much was in my bank account. They told me to go down to the shop and ring them back and then ask the manager if he could speak to Centrelink. I told him about the BasicsCard and he looked at me stupid. I explained the BasicsCard to him, but the owner of the shop said, 'no we can't do it'. Then the Centrelink lady told me to spend it somewhere else. She said go into Target because you can use it in Target Australia wide. I told the man at Target the same story and he looked at me like I was stupid as well - it didn't work; Target wouldn't let me use my BasicsCard either even though Centrelink told me it would work.
- At first some people were happy with IM because it stopped them getting humbugged when they went shopping. People also do a lot of shopping for food with their kids. But a lot of people aren't happy that the government is telling them how to manage their money.
- We have always looked after our own families. It is part of us; part of our culture that we always take care of our families.
- We've come along way from being controlled by the government; we want to break free from this control from the government. They have given us back our communities to run and take control, but now they have come back and taken control in another way.
- I was very angry with the BasicsCard system because I wasn't able to get stationery for one of my girls who goes to high school. If they want our children to attend schools we must have the freedom to go out and buy the stuff our children need. It's not only us, our children are also suffering.
- What about teenagers' interstate for college or on school excursions? It makes it very hard for families to support them because they don't accept the BasicsCard interstate.
- Government is pushing people hard to go to work, but there are no jobs.
- CDEP is similar to the BasicsCard, because what we earn and what you get through Centrelink is still the same. You can work through CDEP and you still only get \$400.
- We share and help each other; we don't live like white people. That's our traditional way of living.
- Will the government help and support our people on IM that have to move to town because they need to be on dialysis or other medical treatment. Will the government help them to increase their pension so that they can survive? That is an appeal for help for people who are sick. The doctors say that they can't help them, they need to pay for their living and medical expenses out of their own pockets. However, if they leave Darwin and go back to the community where they can be looked after by family, they could die - it is a risk to our people.
- The current process for IM exemptions is too complicated and difficult. To get an exemption under the current IM system you've got to have a letter from the school regarding your child's attendance; a letter from your doctor; a letter from a senior

person within the community; a statement from the bank, good financial literacy skills etc

- People have to contact Centrelink to find out the balance on their BasicsCards. They have to enter a 16 digit PIN number to get their balance. Many of our old people don't understand this.
- We are the most vulnerable race of people in this country and on the least money, yet the government puts us on IM.

### **Continuation**

- No. We want it to gone completely; we don't want the BasicsCard or compulsory IM and want it to stop; get rid of IM.
- If it is going to continue we support a voluntary trigger model; it should also be applied Australia wide, not just in the NT.
- It should only be compulsory for those who cannot manage their own money; it shouldn't be compulsory for everyone.

## **Business Management Powers**

### **Summary**

Participants noted the government's regarding the Business Management Powers and generally agreed that the powers should be removed from the NTER legislation.

### **Comments**

- This measure allowed the government to stop funding an organisation even when the only organisation in some communities was the Community Council.
- By giving themselves this power, the government is saying we are incapable of running our own programs, policies and corporations.
- If they remove this power, does it mean we get control of our communities back? Does it mean we get rid of the Shires?

## **Law Enforcement Measures**

### **Summary**

There were mixed views about this measure, but participants generally supported the government's decision to continue funding the Australian Crime Commission. Many expressed a willingness to work with the ACC to address issues in their community. Many advised they were not aware of the measure before the workshop commenced and requested the ACC follow-up with further education in communities on the measure.

Those that did have prior knowledge of the measure, expressed concern at the lack of after-care support for victims of abuse and for people reporting crimes. There was also concern that confidentiality provisions did not provide people reporting crimes with adequate protection as they were still required to testify at trial.

## Problems

- The indemnity is not real; once you say something against your own people you get threatened or your house gets smashed.
- People need to understand that you've got to tell the truth because according to the law, if you tell a lie you can go to gaol. All of the people getting hurt are your own family members - this is really serious. The ACC will question people, so I would encourage people not to lie.
- The ACC doesn't protect you once you get back home in your community. The entire problem is yours when you get back home.
- I don't believe in any of this anymore, because I didn't see any law body come and help me when I was helping a little girl that was raped in our community. Even though I reported it and gave evidence, the perpetrator is still in the community where the little girl is living.
- When you report a crime, the ACC take you away from the community for you to give evidence then they bring you back to the community and leave you there - you are vulnerable to 'payback'; there is no after care support for the person who reports the crime or the victim (in this case, the child).
- It is really hard when you report crimes; most of your community and your own family goes against you. It is hard when you are trying to do the right thing. When I went through this I had to leave the community for 11 months. It wasn't my child but I wanted to help her; I did the right thing for her. It nearly drove me insane - when you are on your own and everyone is going against you.
- You can report crime but it is difficult because when you report someone and you go home, you don't have the police there to protect you. There needs to be more protection for people giving evidence. The police can't protect you. We have only two police in our community and there are 1000 people. If there is a riot they can't do anything.
- In the two years since the ACC has been operating in the NT there has been no increase in charges or prosecutions for child abuse.
- All of these laws bring a lot of confusion and fear. The government should give funding to people in the community to education their people about all of these new laws.
- The police just leave offenders in the community and create more problems - it is terrible.
- We weren't informed about this ACC in our community and we didn't know it was running. All this time we had no idea. But now that we do know we will go back now and let our mob know.
- What people need is education about what the ACC powers and what powers they have to force you to testify in court.
- When you protect Aboriginal people who abuse children you are part of the problem. You have to do what is right for yourselves and your family.
- The government is giving only one solution to child sexual abuse - that is wrong (inadequate).
- We would like our Aboriginal Community Police Officers (ACPO) to work with the ACC because they can talk to both the offender and the victim to help them understand; we need to get behind this ACC mob.

## **Comments**

- We have kids with partners that are underage; we need funding for community people to speak to our young people and tell them that it is wrong for them to go with an older people. We need to educate them so that they don't get themselves into serious trouble.
- We need to support our ACPOs. They are there to support our families. They know our traditions far better than the Federal Police we have in our communities. Without our ACPOs it's not going to work between the NT and Federal Police.
- Both Australian and customary law must be recognised.
- None of these problems happened years ago - grog and drugs are what's killing us.
- Every person who comes into our communities should do cultural awareness.
- Police have guns, ACPOs don't - what happens when the ACPOs face people that are dangerous? We need to take this issue up with the Police Commissioner.
- In my community most people don't report child abuse but they have no choice now, you have to report these things. That is when the ACC comes in. We need the ACC to have better communication with the police and the community.
- There is a possibility that the ACC could get the 'welfare' people involved. If we report these things, the authorities might take the child away. We need to know where our children are so that we can support them. All of the blame goes back to the parents. We don't want 'welfare' to take them away – that could start another stolen generation.
- Some of us didn't really know about the ACC until this workshop. It is helpful for us to discuss these things, so we can go forward with a better vision and help our people (particularly those with problems).

## **Continuation**

Participants generally supported the continuation of the ACC measure and wanted awareness programs to help communities understand its role.

## **Alcohol Restrictions**

### **Summary**

Participants noted the government's proposal; some reported that their communities had become safer as a result of alcohol restrictions, but many considered that the current restrictions were not working. Many advised that the restrictions had just pushed drinking into other locations - one of the consequences being people were drinking in unsafe areas such as highways and trucking bays and putting themselves at high risk of accidents, injury and death. Most participants considered that a placed based approach to alcohol management would be a more workable approach.

In addition, participants considered there was a need for more rehabilitation services in communities and education programs to treat the 'problem'.

### **Benefits**

- The community is quieter and safer for children.
- There is less violence, humbug and drinking in some communities.

## **Problems**

- Publicans and governments are the only ones benefitting from alcohol sales - the people don't.
- People are injured, hospitalised and don't live a full life due to 'drinking'.
- More people are moving out of communities and in to town in order to drink. Anti social behaviour is being pushed into towns.
- People are drinking outside the lease boundary and hiding grog in homes.
- People are drinking in unsafe places e.g. beside highways, trucking bays
- Communities without permanent police have not been given any assistance to manage alcohol issues in communities.
- Our mob doesn't understand why tour operators can get a permit for alcohol but they can't.
- Youths are starting to drink because their parents drink.
- There are more break and enters; more violence and noise.
- People are still running around 'all night' drunk and playing loud music.
- Alcohol is still being brought into restricted areas.
- People are going from one liquor outlet to another to purchase grog.
- Alcohol misuse causes domestic violence.
- People are travelling longer distances to get alcohol
- Kids from the camp are sitting with their parents in unsafe areas while they drink.
- Kids go to sleep all day during the class because they can't sleep at night due to the noise - they tell us it is our fault for not taking them to school.
- We see these huge signs saying no alcohol and no pornography but we don't see any positive signs saying, 'welcome you are now entering/exiting xxxx Country, it is a prescribed area'.

## **Improvements**

- Provide education materials for schools; funding for elders/families to conduct community safety/cultural/education programs to let drinkers know where to get help and the risks to their health from drinking.
- Provide more detox programs; rehabilitation services; family counselling services and resources for communities to address these problems.
- Restrict takeaway sales and reduce operating hours of liquor outlets
- Look at the causal issues of alcohol misuse, not just the effects.
- Provide wet areas and facilities where people are safe, can learn to drink responsibly and can be managed e.g. signed and fenced off wet areas/shelters with facilities e.g. water tanks so people don't dehydrate; toilets and lighting.
- Introduce social clubs.
- Tackle drink-driving - especially amongst the young people.
- Give the Night Patrol more powers to patrol drinking areas - at the moment they aren't allowed to enter into the drinking areas (towns).
- Safe houses shouldn't just be for domestic violence, they should also be linked to alcohol education e.g. alcohol and drug workshops.
- Take a holistic approach to the problems; provide support to make people understand what alcohol and drugs are doing to them.
- The government needs to put a larger levy on alcohol to raise funds for alcohol rehabilitation and detox centres.

### **Other ways**

- Provide safe houses for men, women, youth and the elderly. Not just one safe house in each community.
- Provide more funding for rehabilitation programs.
- Use outstations for debriefing/sobering up facilities and to help get people back in touch with culture.
- Give the Night Patrol the authority to tackle the issues rather than relying on police.

### **Comments**

- We watch people bringing alcohol into Roper Valley and report them. Sometimes the police go out the highway where the sign is and check around for people bringing grog in.
- We have had the death of a young fellow in our community because the drinking area was near the highway - we knew this was going to happen - it was only a matter of time.
- Alcohol and drugs are not a part of our culture. It is that very thing that destroyed my son. My heart goes out to the young people. I tell them the story about my son. It destroys our culture.
- We need women to understand about drinking too, so when they are drinking far away they can be safe. We need responsible women to be amongst the drinkers, so they can care for them.
- We have a lot of accidents near the highway; my granddaughter got hit by a car. Kids are now using this as a threat e.g. 'yeah I can die, I'll die today'. It's happening because there is too much grog in the place.
- We need to have somewhere safe to drink (closer to our communities). In wet season people often have to swim across rivers to get home after they have been drinking. When they are drunk it is dangerous. We need more support for our Night Patrol to look after the drinking areas. We need them to help people to get home
- We need the government to support us and give us money so that we can organise the solutions for ourselves in our own communities.
- The drinking area is too far away from communities. We are losing family members and people are having big fights there. People end up dying in these drinking areas. We need proper wet area facilities.
- We need to put in place a solid foundation for our young people. We need to start planning on how to deal with these issues while they are current.
- A lot of hotel, motels and other alcohol outlets are breaking the law by not asking people to show identification and not limiting the amount of alcohol people purchase. Some roadhouses come under the restrictions but they don't abide by them.

### **Continuity**

- Lets work together to solve this problem and develop community based solutions.
- Yes to alcohol restrictions.
- Wet areas are required.

## **Five-Year Leases**

### **Summary**

Participants were confused over the government's lease arrangements and stated that they did not trust the government to give them advice on this matter. Some communities reported benefits as a result of five-year leases, while others stated there had been no benefit at all.

Many people considered that they needed more information on leasing (as they did not understand them). Others stated they were being forced into signing leases and 'bribed' with the promise of new houses.

### **Benefits**

- The land is our mother it provides, food, accommodation and safety. It should not be bought or sold.
- One community reported the following benefits as a result of five year leases - a communal playground; four kilometres of bitumen road; a new bridge; and a multi purpose recreation hall.
- Another said it enabled the installation of safe houses.
- An Outback Store has been put in place (and we own it).
- Creation of GBMs and Indigenous Engagement Officers (IEOs) positions.
- Minor house repairs in some communities.

### **Problems**

- Many participants reported that there were no benefits.
- What are fair rent payments and whose values are they determined on?
- Having to enter into a lease in order to get housing; the government is forcing people to take out longer leases. Can't we get new houses without them bribing us?
- To-date, not one house has been built - where has the money gone?
- No renovations have been done to existing homes.
- No partnerships as yet.
- When will the leases be reviewed?
- In one community, the men's' safe house looks like a prison so no-one uses it.
- Land with no buildings should not be assumed to be vacant land – often it is our hunting or sacred area.
- The government can't just go and put houses where they want - they must recognise our sacred/ceremony places.
- What happens when the leases end? Are they going to take the buildings away? Is it legally ours or will they rent them to us?
- People are still confused about leases.
- Too many promises aren't being kept.
- Promises for training and apprenticeships for Aboriginal people haven't been kept.
- We don't know who to trust.

### **Improvements**

- Respect Aboriginal culture.
- We want a safe house in our community.
- We need health programs and access to services.
- We need help to improve our quality of life.
- Government needs to explain why it needs leases.



## Comments

- Participants considered that communities should have the option of moving to voluntary lease arrangements.
- One participant said that he would like Kevin Rudd to pay rent to my people, the Traditional Owners of this country, for the last 220 years. The government haven't paid us any rent yet they are asking Aboriginal people to pay rent. I want that taken to Kevin Rudd. I want compensation for my people. I don't care if it billions and billions of dollars, the resources of this country have made this country wealthy. Your land is your home and your heritage and it belongs to us. I want that put in the records.
- Where is the money coming from to pay for this? If the government takes the compensation payments for the five-year leases from the Aboriginal Benefits Account (ABA) I will sue the Australian Government. This is monies that are supposed to go to Aboriginal people. It is not for the government to use then say to the media, 'this is new money'.
- The government doesn't respect Aboriginal culture, it is removing it.
- Five-year leases to me are a land grab
- How serious does the government take us? I look at some of these questions and they are not serious at all. They are imposing their values on us.
- To me the value of my land is priceless.
- We have 18 houses, we own them. The NT government was going to give us money to do the upgrades and renovations to the existing houses. Some of them are 15-20 years old but that money wasn't enough for all of our houses, so the NT Government came back the second time and forced us to sign the paper. I had no choice, they came three times and they made me sign the paper. From the day I signed up, its not actually a five-year lease, there are only 2 years left. They are going to come into our community, where our houses are and leased the area. That area will belong to the NT Government and they will make the rules for those houses.
- What about the 40-year leases that are in Wadeye, Maningrida and the 90-year lease on Tiwi Island? We are confused. Even our Land Councils have been telling us different story - everyone has different stories.
- We do not trust anybody, especially the government. We don't trust the NT Housing Department.

## Continuation

- No. Leases should be voluntary.

## Community Stores

### Summary

Participants noted the government's proposed changes and generally agreed there had been an improved range of goods in stores since the introduction of the Community Stores measure. However, there were concerns that the high price of goods made healthy foods less affordable; and that stores were not stocking food for diabetics.

Participants advised that store committees should decide if a manager should be removed and considered that this requirement should be removed from the proposed new licensing arrangements.

## **Benefits**

- Improved range of food in stores.
- White goods are being sold.
- There is training for Aboriginal people through some stores.
- Government is assisting people with governance and money management training to help them learn how to manage stores better.

## **Problems**

- There is no book up since the NTER.
- Prices in stores are very high.
- There is no an access point in stores to get account balances on the BasicsCard.
- Stores still need to improve the quality and quantity of food in stores.
- The items you can get on the BasicsCard are too restricted.
- Some shopping centre stores don't take the BasicsCard.
- Stores committees should decide if a manager should be moved out or not, not the government.
- We are not able to buy healthy things with the money we have because of the high prices.
- We live in remote communities; much of our food has to be trucked to our community from down south - freight costs are high.
- The government want us to have healthy food and a healthy lifestyle. Our regional health organisations have always provided us with access to nutritionists. Now the government want to come and take-over.
- Sometimes we don't have fresh fruit and vegetables in our stores.
- Roadhouses and shops on highways should have the same legislation as we do in our communities?
- The cost of goods has gone up but our income hasn't.
- Most of the quarantining money for food amounts to \$200, so we have to buy the cheapest brands, which is not always good for us.
- Store managers are coming in but don't let the community know what is going on with the store. There needs to be more communication.
- Outback Stores said they aren't allowed to sell tobacco, alcohol or lollies.
- When I went to the shop with one of my grand kids to get an ice cream I couldn't use my BasicsCard. Centrelink has to say this is what you can and can not buy. For Christs sake? It an ice cream! All kids need rewards.
- Binjari and Roper Valley have to travel into Katherine for their shopping; why don't they have stores?
- A store at Pinjari has been leased out by someone else? Can the government get in there and help these mob that are leasing the shop and help them get income management and BasicsCard put in?
- We've had people come out and talk to us about putting a store in our community, but nothing has happened. We have been waiting and waiting and nothing is happening.

## **Improvements**

- Government should subsidise the cost of healthy foods in remote areas.

- We have a lot of diabetes; people with heart illnesses; they need diet foods. Sick people cannot afford to buy the things they need e.g. sugar replacement foods.
- I'd like to see all shops closed during school times in our region. Instruct the store keeper not to serve the children – it is important for them to attend school.
- The store card was better because you could check your balance. We should use the store card not the BasicsCard.

### **General Comments**

- Stores need committees to run them.
- Where can the Kalano community go to get help to establish a community store?

### **Continuation**

Yes.

## **Restrictions on Pornography**

### **Summary**

Participants supported the government's proposal to change the pornography restrictions in prescribed communities, but considered the signage offensive and wanted it removed because it misrepresented Aboriginal people and sent the wrong message to tourists visiting communities.

Participants also stated the current policy should be extended to block the supply of pornography from neighbouring townships and the broadcast of sexually explicit material into prescribed areas via television, phones and the internet.

## **Publicly Funded Computers**

### **Summary**

Participants stated most organisations already had filters installed on public computers but supported the government's proposal to retain current controls.

### GENERAL COMMENTS ON THE NTER

#### Income Management

- We are quarantined and told what to buy in shops. The government didn't consult with us on any of this. They didn't go to the clinics where people are treated for abuse and check.
- The intervention should have been targeted to people who cannot control their money.
- Tell the 'deaf tribe' in Canberra that I live in a remote community and I am offended by all of these accusations against me and my people.
- I've never seen pornography in my community at all and I'm a community leader.
- Why do we have to talk? The government doesn't listen to us. Its big talk, no action. Is the government going to listen to us this time?
- All of the NT communities have the same problems with overcrowding and housing. The government said they would give us housing, but we are still waiting. We need proper housing, so we can live properly; have our kids go to school; eat properly.
- I've been in the territory for 48 years and I've worked in communities for a fair bit of that time. Over the 35 years that I've worked in Katherine I have noticed the change towards Indigenous people. I am shocked and horrified to know that Aboriginal people from Katherine who own this place get treated like dirt. I think there are many people from down south moving to Katherine who are mistreating Aboriginal people.
- When I heard about this intervention in my community I was really scared. I've been speaking up for my community and asking for training and housing to help our people and our children, but the government only gives funding to organisations. We (individuals/families) don't get any help. A lot of our people don't understand about this intervention.
- The government should be opening up jobs in FaHCSIA so we can work alongside them to develop solutions to these issues.
- The way to solve these problems is for government to work with Indigenous people that live in the community. It is the only way.
- This has just torn our community apart. No-one wants to work anymore. Everyone just wants to drink and do nothing. Before the intervention our community was working hard and it is still the cleanest place in the NT, but on the work side, the intervention just made it fall apart.
- The FaHCSIA mob came to our community and made a big mess there. They should have come and seen it before the intervention started. Instead of putting in place positive changes to help children, they just changed everything. There were things that didn't need to be changed. FaHCSIA should have changed the stuff affecting the kids e.g. most of our kids don't go to school and no-one is doing anything to make them.

- I don't like the intervention mob; they didn't give us any assistance. People know the little ones are missing out because of all this.
- Recently I was invited to a seminar in King Valley to talk about all the NTER. Men were actually crying as they were sharing their stories about the NTER. The government branded Aboriginal men as paedophiles and are saying they are all getting pornography and stuff, but that isn't true. Pornography is not part of our culture.
- Many of our older people are suffering because they can't work out how to use the BasicsCard. All their lives they have never had to use a PIN number, so now they are totally confused and don't know what is going on.
- This intervention takes us right back to the time when rations were given to our people and we received flour, tea and sugar.
- Ever since CDEP was stopped; all our young people are just laying around. CDEP did really good things, including building and repairing housing in our community. Young people in the community and people that want to work are no longer working because of the changes to CDEP. The NTER has cut everything off.
- The government took five-year leases over our land. Is the land ours or the governments? We want this land for ourselves and for our kids' future.
- The NTER is very bad for us mob, it is breaking our culture down and they still want to take the land over from us.
- The government just writes reports and everybody forgets them. If they don't believe us, tell them to come up here and have a look at what is happening in the NT. We are struggling. Come into my community and sit down and see what is happening? You will get a big shock.
- There are no new jobs in our communities. Our people are on CDEP for four hours a day and earn \$400. That is not enough to live on. Can't the government increase the wage limit?
- We need change. We are suffering.
- In Rock Hole, a young fellow was bashed up by two policemen. They barged into my house and all the community members went up to see what happened but the two policemen told them to get away and wouldn't let them in. My cousin called the police station and told them what was happening but those two policemen sent the other police away.
- We had alcohol restrictions in place before the intervention. The government is just taking rights away from our people which is very sad and wrong.
- We are sick of the intervention. We want to have control over our own lives. We want to manage our own affairs and access all services in our communities; some of our communities are really big.
- The government is making us terrified. The women can't even manage the problems at home. They have given us Night Patrol and Safe Houses but no funding to run the programs we want. Even with the health checks for kids. They gave us buildings, but no money to maintain the building. Employment wise there is still no funding for our workers.
- The government doesn't practise what it preaches. Why aren't they giving us a proper education? I see my people dropping out of high school. The government doesn't want to give us education because it is the key to all of this.
- We want funding for training so we can teach our own people to run our own community. We have to teach our own people to manage their monies and to have the opportunity to become nurses and doctors (if they want too).

- During the holidays there was a youth camp for our young people but they didn't include young people from our community. There is nothing being done about children, no holiday programs and no youth camps. Children get really bored. Many do break-and-enters; sniff petrol; drink grog; take drugs. There are no programs for them. I am really worried about the young kids. The government should provide training for youth workers or programs in our community so that they can teach the young people - because when they get old they are the ones that are going to be taking our place, working in offices and hospitals etc. We need to teach our kids about law and justice and all of these things.
- The Shire changes have had a negative affect on communities; CDEP; outstations; homelands; and education. Our Community Councils were given very little money.
- The word intervention means, 'tell someone else what is good for you'. The first intervention in this country was 1788, when Cook landed and claimed the country belonged to England - it doesn't. It belongs to Aboriginal people. In any international law this country belongs to us. The minerals belong to us. But what do we get out of it? Peanuts! You got the Murdoch's who are multi millionaires, but what do I have on me - \$5.
- I come into Katherine to do shopping and the balance on my BasicsCard says zero balance - shame job. It is embarrassing.
- People from overseas get treated better than Indigenous people who own this country. People from overseas are sponsored by Woolworths and get \$10,000 in the hand to start a new life. The money we put into Woolworths is going to foreigners.
- There is a lot of overcrowding at Rock Hole but the government doesn't give a damn. They just created more mess. How can our kids get up and go to school every morning when they don't have a good nights sleep because they live in overcrowded houses.
- There are big blue signs at Rock Hole saying no alcohol and no pornography. Nothing has come out of the intervention to benefit our community.
- All of our kids go to mainstream schools in town. We have parents that go to pay for school uniforms but can't use their BasicsCard to do this. It's just making it hard to do simple things. We are just sick of it.
- What do GBMs actually do? I've been fighting for houses in my community for the last six years. The government says no to housing for us, but then goes and builds GBM houses? We want to be consulted on these issues.
- We have health clinics and health workers who check our children out at school. Then the intervention came in and our kids are screened. What are you looking for?
- The government is claiming it created 2000 new jobs. Well most of those jobs went to non-indigenous people from interstate. All we have done is created new problems. There are no new jobs in communities; this is a fallacy. There are only CDEP positions in communities.
- When farmers or motor companies go bust, the government helps them, but when it comes to Aboriginal people they just call us dysfunctional.
- We need legislation to give Night Patrol services powers to arrest people. The police in Kalkarindgi have to work 24hours a day. They are tired.
- The 2000 new jobs the government created are contract positions. We don't have proper information of how contracts work. People do not understand what a contract means. We need proper jobs and proper pay, not contract positions.

- We've been sitting on CDEP since 1999 and people are still working four hours a day. Four hours doesn't give us anything, it doesn't lift our peoples' wage. That's where we are suffering right now; we want that to be changed.
- Our community (Farrer) is only small, but because we only have three run down houses the government doesn't recognise us. We need funding to support our community. The government doesn't give us anything.
- My name is Jess Brown and my community is really bad for drugs. We made an appointment to meet with the superintendent at Katherine Police station and had a good talk to him about how the drugs are coming into our community because we wanted to do something about it.
- Where are all of these new stations and new police? Police are not there to assist us when we need them. When we call for the police they do not respond. Because our community is closer to town the police tell us we will get one out there as soon as we can, but sometimes they don't come until the next day or not at all.
- Before the intervention, drunken people used to sleep all around town, then the town Council made a complaint. The intervention has just made it harder for drinkers. Night Patrol workers get frightened because of family problems. It is not their job to arrest people - it is the policeman's job. It is not true when people say that the Night Patrol is not working.
- Why didn't the government put the intervention in all communities?
- In Mataranka we have Night Patrol and we work eight hours a night from 6pm-2am and we don't get much support from police. We don't have any shelter there – we have to bring the people back to Katherine and there is only two or three people working in Night Patrol. We need more police. The night patrol has to work all night and we are copping it from the community.
- We don't have a registered nurse in our community - we have a mobile team come in. I don't know why the government won't give us a registered nurse. Every other community has a registered nurse but not us. We have a visiting doctor from town. When we have had emergencies we have had to wait until the next day. One fellow nearly passed away, but he had to wait! We need a registered nurse in the community to help us.
- We've got policemen but we want those policemen to have respect for us and our community. They just walk in and do what they like. They get family members to come out of the house, if they want to arrest someone. They are still overruling us. A couple of weeks ago my brother was ill and I asked the police to try and help us to get him to the clinic but they went in there and told the family members to walk out of the house and then they started using pepper spray on them. Even our next door neighbours saw it. They aren't treating us right. If they work for the law they must show some respect to us.
- We have Night Patrols but they haven't got the power to do anything. We have a drinking area about 30kms out of the community but the Shire won't allow the Night Patrol to go out there to help. They tell us it is not a taxi. The Shire is too protective of their cars. We need some scope for the Night Patrol to manage in our community.
- I'm not very happy about the police. Just because they come in uniform doesn't mean that they can overrule us. They have to treat us like humans not like dogs. We understand we need to show respect as well.
- In our community when we want the police to come and help with drunks, they don't come. We all have the alcohol problem in our communities. We had a meeting with the Liquor Commission because we have a lot of policeman in communities doing

the wrong thing. The GBM was supposed to write a letter to give to the Police Commissioner, but I don't know if he did that.

- The police in our community work from 7am-4pm and then they spend the whole rest of the day (drinking) in Pine Creek. We try to get the Katherine police to come and help us when the other police are drunk.
- Centrelink payments haven't gone up at all. Parliamentarians have their wages go up. Us mob are on \$11,000, but food has gone up and everything else is going up in price e.g. clothes are costing more but our payments haven't gone up.
- Before the NTER came the government wanted people to pay for the School Nutrition Program when it hadn't even started. Other people were saying that it wasn't compulsory therefore no one should be paying for it. I went to Centrelink and I spoke to my coordinator and they didn't even know the answer. So what's the go? Is that a rip off or what?
- The government talks about trying to help us but it has been 2 years now. There are nearly 1000 people in Kalkarindji and only four policemen. If there is a riot out there the police won't be able to handle it. By the time the taskforce from Katherine get to the community there would be dead bodies there. They made promises for extra police but we've never seen any. Nothing has been done; no houses have been built. The government has violated the law by taking our human rights away. We have had enough – we want our human rights back. The government has to take this intervention away.
- Kevin Rudd apologised to people like me who were taken away from my family but he never gave compensation. My mothers thought I was dead before I came back to my community. I got institutionalised because of the colour of my skin. Us kids were taken away for one thing; being born brown. Kevin Rudd has a responsibility to the NT because we are not a State - all the other States promised compensation and said sorry.
- There are two statutory bodies created under the law to control the majority of Aboriginal land in the NT. A lot of white people in the Land Councils' fear Aboriginal people speaking up about our land. Without land we are nobody. I fear the government might try and chuck out the Statutory Land Councils like they did ATSIC.
- Our Night Patrol doesn't have any powers. That has to change under law because I know that my people back home know when the police go to bed. That's when the grog comes in. They need helicopters to chase these vehicles. How many times have we heard that there's been drugs and alcohol coming onto our land?
- We need to teach Aboriginal history and culture in our schools.
- We need to let the government know that these whitefellas need to do cultural awareness courses and show respect when they are in our communities. No matter whom, if they are stepping on Aboriginal land there are rules.
- We need funding for sport and recreation. The intervention is meant to be about our children, but why isn't the government putting money into programs for them. There is nothing set up for them.
- The GBM for Kalano community was a manager in Night Patrol. When he was working we got together and had a meeting and he actually rubbished the people at the back of Kalano. Now he wants to come and work for Kalano as their GBM. We don't want the GBM allocated to Kalano. We had a good GBM, a healthy one, who wanted to make us stand on our own two feet.





**Australian Government**

**Department of Families, Housing,  
Community Services and Indigenous Affairs**

8 September 2009

Summary of Tier 3 NTER Workshop: Nhulunbuy

Dear Participant

Thank you for participating in the Northern Territory Emergency Response (NTER) Future Directions regional consultation workshop in Nhulunbuy on 18-19 August 2009.

Attached is a summary of the workshop. This information will be used to inform the NTER Future Directions report, which is expected to be released to coincide with the legislation going to Parliament in the 2009 Spring sittings.

The Australian Government is committed to consulting with Aboriginal people in the Northern Territory to improve the NTER measures and would like to thank you for putting forth your ideas on possible ways forward.

Should you wish to add any comments to the summary please forward them either by email to [Lee-Anne.Barnes@fahcsia.gov.au](mailto:Lee-Anne.Barnes@fahcsia.gov.au) or by post to PO Box 7576, Canberra Business Centre, ACT 2610 or give them to your GBM. In order to be considered in the NTER Future Directions report these additional comments need to be with us by cob 16 September 2009.

*Jim Ramsay*

Director  
National Indigenous Rep Body Branch  
Indigenous Leadership and Engagement Group

## NTER FUTURE DIRECTIONS TIER 3 REGIONAL WORKSHOP NHULUNBUY

<b>Date</b>	18-19 August 2009
<b>Venue</b>	Walkabout Lodge
<b>Staff</b>	Jim Ramsay; Jacqueline Bethel; Gail Ah Kit; Lee-Anne Barnes, Dianne Collins.

### **Participants**

Participation at the workshop was open to all community members in Nhulunbuy and the surrounding region. People wishing to participate were required to register their interest with the local Government Business Managers (GBMs) or Indigenous Engagement Officers. There were 24 people who attended the workshop. Participant numbers were lower than expected as there had been four deaths in the region. Participants attending the workshop were from: Gapawiyak, Elcho Island, Ramingining, Warruwi, Yirrkala, Ski Beach, Groote Eyland and Umbakumba.

### **Format of the Meeting**

The workshop was conducted over two days. It was structured to provide participants with detailed information on the Government's position on the Northern Territory Emergency Response (NTER) as detailed in the Future Directions Discussion Paper, including:

- its intention to table legislation in the Spring Sitting of Federal Parliament to restore the *Racial Discrimination Act 1975* (RDA); and
- changes proposed to individual measures to improve the workability of the NTER.

The government's position on each measure was fully explained to participants. The level of awareness of the Discussion Paper was low to medium.

A copy of the agenda is at **Attachment A**. Each information session was followed by a workshop using the specific questions from the Discussion Paper and a plenary session which engaged the whole group into discussion about the future directions of the NTER. Participants chose to respond to questions regarding Publicly Funded Computers and Restrictions on Pornography in separate gender group discussions.

Participants were advised that the government has engaged a consultancy firm to ensure that the consultations are conducted in a transparent and professional manner.

A summary of the workshop responses to each of the measures is at **Attachment B**.

A summary of the general comments about the NTER is at **Attachment C**.

## **Feedback**

Jim Ramsay advised all participants that:

- the consultations will continue in communities until the end of August 2009;
- the government will then make a decision on how it will redesign the NTER measures;
- the legislation will be drafted and tabled in Parliament in October 2009; and
- the report on the consultations will be prepared and released to the public in October 2009.

The workshop ended with separate men's and women's meetings. Reports of these meetings have been lodged with the Government.

## NHULUNBUY 18–19 AUGUST 2009

## DAY ONE

TIME	NO.	ITEM	FACILITATOR
08.30 – 09.00	1.	<b>Registrations</b>	
09.00 – 10.30	2.	<b>Opening</b> <ul style="list-style-type: none"> <li>• Welcome to Country</li> <li>• Introductions/Housekeeping</li> <li>• Purpose - The Consultation Process <ul style="list-style-type: none"> <li>- Background to the NTER</li> <li>- The Government's Position</li> </ul> </li> </ul> <b>Questions and Answers</b>	Jim Ramsay Gail Ah Kit
10.30 – 11.00		<b>MORNING TEA</b>	
11.00 – 12.30	3.	<b>NTER Review</b> <ul style="list-style-type: none"> <li>• Key Recommendations</li> <li>• Government response</li> </ul> <b>The National Picture</b> <ul style="list-style-type: none"> <li>• Key points about the NTER</li> </ul> <b>The Major Benefits</b> <ul style="list-style-type: none"> <li>• Overview of the major achievements</li> </ul> <b>Racial Discrimination Act 1975 (RDA)</b> <ul style="list-style-type: none"> <li>• The NTER and the RDA</li> <li>• The Government's commitment</li> </ul> <b>Question and Answers</b>	Jim Ramsay
12.30 – 1.30		<b>LUNCH</b>	
1.30 – 3.00	4.	<b>The Measures – Income Management</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> </ul>	Jacqui Bethel

		<ul style="list-style-type: none"> <li>• Workshop session</li> </ul>	
3.00 – 3.30		<b>AFTERNOON TEA</b>	
3.30 – 4.00	5.	<b>Income Management</b> <ul style="list-style-type: none"> <li>• Feedback session</li> </ul>	Jacqui Bethel
4.00 – 5.00	6.	<b>The Measures – Law Enforcement/ Business Management Powers</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government's position</li> <li>• Workshop session</li> <li>• Feedback session</li> </ul>	Gail Ah Kit
5.00		<b>CLOSE</b>	

# NHULUNBUY 18-19 AUGUST 2009

## DAY TWO

TIME	NO.	ITEM	FACILITATOR
09.00 – 09.15	7.	<b>Recap of Day One</b>	Jim Ramsay
09.15 – 10.30	8.	<b>The Measures – Alcohol</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government’s position</li> <li>• Workshop session</li> <li>• Feedback session</li> </ul>	Jim Ramsay
10.30 – 11.00		<b>MORNING TEA</b>	
11.00 – 12.30	9.	<b>The Measures – Five-year Leases</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government’s position</li> <li>• Workshop session</li> <li>• Feedback session</li> </ul>	Jim Ramsay
12.30 – 1.30		<b>LUNCH</b>	
1.30 – 3.00	10.	<b>The Measures – Community Stores</b> <ul style="list-style-type: none"> <li>• Purpose</li> <li>• Progress to-date</li> <li>• The Government’s position</li> <li>• Workshop session</li> <li>• Feedback session</li> </ul>	Jacqui Bethel
3.00 – 3.30		<b>AFTERNOON TEA</b>	
3.30 – 4.30	11.	<b>Men/Women Meetings</b> <ul style="list-style-type: none"> <li>• Restrictions on Pornography</li> <li>• Publicly Funded Computers</li> <li>• Other issues</li> </ul>	Jim Ramsay  Gail Ah Kit

4.30 – 5.00	12.	<b>Plenary Session:</b> <ul style="list-style-type: none"><li>• Major Messages for Government</li><li>• The Way Ahead – Future Developments</li><li>• Evaluation</li><li>• Acknowledgements and close</li></ul>	Jim Ramsay
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## THE MEASURES

### Racial Discrimination Act 1975 (RDA)

#### Summary

There was overwhelming support for the government's decision to reinstate the RDA. Participants advised the NTER was discriminatory and should have been applied Australia-wide. Yolgnu advised that they viewed the NTER as discriminatory and that the government was taking responsibility away from individuals' and families' and making people reliant on handouts.

#### Comments

- We want the RDA reinstated.
- The NTER is just targeting Yolgnu people.

### Income Management

#### Summary

Participants noted but did not support either of the compulsory IM models proposed in the NTER Future Directions Discussion Paper. They recognised that there had been benefits from having IM in their communities, however, they viewed the measure as discriminatory and condescending.

They advised that IM should only be applied to young people with school aged children and that people over the age of 45 years who did not have dependents, should be exempt.

#### Benefits

- More people are buying food, paying rent, buying household items, paying bills and using their BasicsCard for airfares.
- People are saving and buying vehicles.
- There are more white goods being purchased - fridges, deep freezers, washing machines – some people have never bought these items before
- The BasicsCard can be used for travel and to purchase power cards.
- There is not as much humbug in communities.
- It has given old people security. They are able to save money and have it sitting in the bank so people cannot steal it.
- The school nutrition program is working in some communities and kids are looking healthier.

#### Problems

- This is just creating dependence. The government has taken responsibility away from families and in particular, men. Let us look after ourselves.



- Income Management (IM) is just forcing people to rely on handouts. Why should we work and take responsibility for ourselves and our families if the government is going to do it for us?
- Why wasn't IM applied to everyone across Australia. Why is it just targeted to Aboriginal people in the Northern Territory (NT)?
- Centrelink should be servicing communities better and letting people know how much they earn and how it is divided up. We aren't even being told how much money we get a fortnight.
- Old people should not be income-managed. They have different needs and are capable of looking after themselves, their children and their grandchildren.
- When the 'shop' cards were introduced it was hard to understand how they worked. Many people still have trouble with them.
- People want to be able to choose where they shop. We are not able to use the BasicsCard anywhere other than our own store. When we travel to other centres we cannot use it
- The BasicsCard cannot be used for range of essential services e.g. the NT Bus service, commercial transport and taxis. The card should be able to be used nationally.
- People in Arnhem Land have two cards – the BasicsCard and the ALPA card. This is causing confusion, especially for old people.
- People are still sharing pin numbers and key cards.
- Centrelink have been taking photos of people in community without permission.
- There is not enough cash left over for cultural business, funerals or for people to visit families in other communities.
- Centrelink is not communicating with people in communities. People need to be informed.
- Young people are also struggling to understand IM.
- There are no machines to check balances and at Umbakumba we cannot use the BasicsCard for fuel.
- Centrelink should have a 24 hour service for BasicsCard issues. There is no assistance available after business hours or on weekends.
- This has not stopped people taking money out of old people's cards.
- The School Nutrition Program is not up to standard in many communities, but we are still expected to pay for it through IM.
- Income Management (IM) is disadvantaging older people who do not understand how to use the BasicsCard. Nobody should have the right to take the money away from old people (45-60 years).
- A lot of older people in communities are required to travel frequently for ceremonial, cultural or family reasons and should be able to do so (they need access to their money to do so).

### **Improvements**

- People aged 18-25 years of age should be on IM. They have kids going to school that need a better education.
- People over 45 years of age should not be on IM.
- IM should be voluntary.
- Government agencies need to talk to people living in outstations as these people do not have transport to get to towns to shop with their BasicsCard.

- There needs to be money management training in communities.
- Access to Centrelink should be through a free call number and be available 24 hours a day.
- There should be machines in communities to allow people to check their BasicsCard balances.
- Centrelink staff should be given cultural awareness training as they don't know how to communicate with Yolgnu people. We need interpreters working in communities.
- The School Nutrition Program should not be funded out of IM. We look after our children.

### **Continuation**

- Not in its current form. It should be voluntary. Yolgnu don't want their income to be managed.
- We want our rights back. Enough is enough. Let us be who we are.
- Stop playing us like puppets on a string.

## **Law Enforcement**

### **Summary**

Participants had only a limited knowledge of the role of the Australian Crime Commission (ACC) and the National Indigenous Violence and Child Abuse Intelligence Taskforce (NIITF). There was considerable discussion on how the measure related to customary lore. Yolgnu stated their lore was just as powerful as any white man law. They did not understand why the government would introduce a measure like this for a limited period of time. There were no benefits identified from the measure.

### **Comments**

- If we want Commonwealth law enforcement in our community to deal with drugs, violence or child abuse we should call the ACC.
- Yolgnu people, the ACC and NIITF need to work more closely together.
- Stop rejecting our customary lore. Yolgnu law is as powerful as any white man laws.
- Traditional Owners need to be talking with the government about this.
- This is happening because we are caught in the system that white people have forced us into. Australian law is being forced on us.
- Australian law does not acknowledge traditional lore. The Australian Government does not recognise our lore. If traditional lore was put into constitutional law then this wouldn't be happening.
- Black people have nowhere to run and hide. White people can jump on a plane or a boat and disappear.
- There was no consultation about this measure. The government should come to community and talk to us about it.
- Why is it that the police can come into people houses without a warrant? It shouldn't matter whether it's local police or the ACC, they should be required to have a warrant.
- Yirrkala residents said that they don't need the ACC. It is harder for us to deliver our own customary lore when we have people interfering.
- Yolgnu people do not understand a law that is only enforced for one or two years. Our lore does not change.

- There has not been enough consultation or education on the ACC and NIITF. The ACC and NIITF should visit communities and talk to us about this.
- The ACC is just rubbishing our customary lore.
- Red tape exists in both Australian law and traditional lore. That is why we need to talk.

## **Alcohol Restrictions**

### **Summary**

There was general support for the government's proposal to introduce Alcohol Management Plans in consultation with individual communities. Participants stated there had been considerable benefits to their communities as a result of alcohol restrictions including, reductions in violence and anti-social behaviour. Families generally feeling safer. Some were concerned that the black market trade on alcohol and gunja had increased since restrictions were introduced. They also supported the reinstatement of regulated kava usage.

### **Benefits**

- The level of violence, break in and theft has dropped in some communities.
- Families are feeling safer.
- There is reduced noise, swearing, less crime and less drink driving.
- There is more money being spent on families.
- Kids are going to school more often than they did two or three years ago.
- The health of people in communities has improved.
- There are more men in jobs.
- There aren't as many beer cans lying around in communities.
- There are more activities happening more frequently in the community e.g. camping trips, cultural activities, hunting, sports and family get togethers.
- We now have a safe house that we use for the drunks and mentally ill people.

### **Problems**

- The alcohol permit system has been a problem since it was introduced. White people can get take-away beer but black people have to have permit.
- People in the long grass are not being managed.
- There are too many drunken people on the streets after midnight when the Walkabout or Arnhem Club close.
- Pub and club licenses need to be restricted so people have fewer hours to drink. They should be forced to close earlier.
- There are drug issues in communities that are not being addressed.
- People have a piece of paper that says they can drink on our country, yet we can't.
- Black market sales of alcohol and drugs have increased e.g. people are now paying \$800 for a 750ml bottle of alcohol.
- There has been an increase in the amount of home brew being sold to Yolngu people.
- There has been an increase in the amount and price of gunja being sold in communities e.g. a bag of dope is now being sold for \$150.
- There is still a lot of family breakdown happening.

- What happened to the money the government made from kava sales? Where did that money go? It used to go toward nutrition programs and funeral funds but now we have to pay for these things out of our own money.
- Communities have a big problem with the growing black market in drugs and alcohol.

### **Improvements**

- There should be more rehabilitation centres and support services for people with alcohol and drug issues.
- Police and Night Patrol should be advised that drunks should not be taken back to families' houses.
- There needs to be more education about where alcohol can and can't be consumed.
- We want kava back to replace grog and gunja in communities. This was managed and limited to two kava per day, per person; Kava calms people down and reduces violence.

### **Continuation**

Yes. We do not want grog in our communities.

## **Five-year Leases**

### **Summary**

There was strong opposition to the government's proposal on five-year leases. Participants advised they did not support the current or previous government's position on leasing and wanted their land back. Some communities stated they had seen minor improvements in housing as a result of the NTER Community Clean Up program. However, most stated the government had failed to deliver on its promise of improving housing and were upset that more had not been done to address overcrowding in communities.

### **Benefits**

- There were some improvements in housing conditions as a result of the NTER Community Clean Up program: doors, locks, fans, kitchen sinks, fences, shower heads were replaced.

### **Problems**

- No new houses have been delivered as promised.
- Communities have not been consulted or educated on leases.
- The NTER Community Clean Up program repairs in some communities were not completed.
- There has been a lack of information from GBMs on leases and housing..
- Traditional owners are not being consulted or advised of lease arrangements.
- We should not have to give up our land in order to get houses.
- There appears to be alot more involved in a lease agreement than just providing land for a house.

## **Improvements**

- Traditional owners should be able to decide who can build houses on their land and where they can be located.

## **Continuation**

No way. We don't want leases in our community. Give our land back.

## **Community Stores**

### **Summary**

It was recognised there had been some benefits to community stores as a result of licensing. Generally participants agreed with the government's proposal to continue the measure. The high price of fresh fruit, vegetables in stores was a major issue in all communities. Participants advised government should be doing more to subsidise the cost of food and make it more affordable. People also stated store opening hours should be standardised across the region and employment of Yolgnu people in community stores should be included as a condition of license.

### **Benefits**

- There is more fresh fruit and vegetables in stores.
- The expiry dates of products in some stores are now being shown.
- There have been improvements to the store at Dhanbul since IGA took over.
- There is an increased range of goods being stocked.
- Children are being taught about nutrition and there is a growing awareness amongst them about good eating habits
- There are no school; no shop policies in most communities.
- Galiwinku store opening times from 9am to 9:30pm are good and include the take-away.

### **Problems**

- Store Committees are not being transparent in how store profits are being spent, if at all, in communities.
- There is uncertainty around how stores are managed and who owns each store since the Shire reforms.
- People were not consulted about community owned stores being transferred to the Shire.
- People who have BasicsCards cannot afford to buy nutritious foods, as it is too expensive.
- The cost of goods in stores is too high.
- There are not enough Yolngu people being employed in stores.
- Expiry dates are not being displayed on foods in some stores. Expired food is not being removed.
- The FaHCSIA store team should not tell everyone when they are visiting licensed stores.
- Take away outlets selling greasy foods should not be licensed.
- Shops in some communities only open for a short time.

## **Improvements**

- Licensing more stores may create competition and help reduce prices.
- Take-away shops should only be licensed, but only if they are selling healthy food.
- Healthy foods should be subsidised by government.
- Expiry dates should be displayed in a way that is understood by the customer.
- Store operating hours should be standardised across regions as a condition of license.
- There needs to be more employment and training opportunities created for Yolgnu to gain employment in community stores, including in managerial roles.

## **Other Ways**

- Stores should be encouraged to have discount days for certain items. e.g. meat and other specials.
- Stores should establish a proper lay-by system for people to make big purchases e.g. fridges.
- Stores should offer discounts to people who spend a lot of money in the store each week. This could be like an incentive program where people get a voucher if they regularly buy healthy food.

## **Continuation**

Yes.

## **Business Management Powers**

### **Summary**

Participants advised the Business Management Powers allowing Government to stop funding to an organisation not performing should remain in the NTER legislation.

## **Publicly Funded Computers**

### **Summary**

Participants stated most organisations already had filters installed on computers and generally agreed this should continue.

## ENTER GENERAL COMMENTS

1. Why is the government making the decisions for our people when we should be?
2. I don't want to pay for the School Nutrition Program. I provide my own children's lunches.
3. The GBM at Gapawiyak should not have made the decision for four people from the community to come to the workshop. We should decide.
4. We have to be the most consulted people in the country - if not the world.
5. Government is making decisions for us. We always have to struggle for our basic human rights.
6. Government makes visit after to visit and questions Yolgnu people. What about Balanda people. Why doesn't the government just give us back our rights?
7. Police in communities are only looking after police.
8. The only people that don't like the police in our community are the people that break the law. The people in our community are happy with the police.
9. Lawyers and government staff involved in the negotiation of leases need to have interpreters work with them to ensure Yolngu have a true understanding.

## Appendix 3

### Alastair Nicholson 6 January 2010 comments:

#### **Social Security and Other Legislation Amendment (Welfare reform and Reinstatement of Racial Discrimination Bill 2009)**

#### Notes and Comment

In this document I have largely concentrated upon the income management measures, but it is worth noting that many other objectionable features of the NTER have not been addressed by the Government, nor were they addressed during the so-called ‘consultations’ by the Government with the Aboriginal communities. One obvious one is the differential treatment of Indigenous persons as to sentencing and bail applications with respect to issues of customary law which is obviously discriminatory.

In considering the Bill it is necessary to pay some regard to historical issues.

I refer first to some of the relevant provisions of the *Racial Discrimination Act 1975*.

S 9 of that act provides:

*“(1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.”*

S 10 provides:

*(1) If, by reason of, or of a provision of, a law of the Commonwealth or of a State or Territory, persons of a particular race, colour or national or ethnic origin do not enjoy a right that is enjoyed by persons of another race, colour or national or ethnic origin, or enjoy a right to a more limited extent than persons of another race, colour or national or ethnic origin, then, notwithstanding anything in that law, persons of the first-mentioned race, colour or national or ethnic origin shall, by force of this section, enjoy that right to the same extent as persons of that other race, colour or national or ethnic origin.*



Article 1, Para 4 of the International [Convention](#) on the Elimination of All Forms of Racial Discrimination, which appears as a Schedule to the Act and upon which the Act is based and which is incorporated into domestic law provides:

*“Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.”*

Article 2.2 provides:

*“States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.”*

The relationship between special measures, including these two Articles and the RDA is fully discussed in “Will they be heard?”<sup>1</sup>. As was there pointed out, one of the characteristics of special measures is that they are designed and implemented on the basis of *prior consultation* with affected communities and the active participation of such communities and may, if they have a potentially negative effect, only be special measures if enacted with the consent of the affected people.<sup>2</sup>

It is apparent that these provisions of the RDA and the requirements associated with special measures presented great difficulties to the Howard Government’s NTER proposals in 2007 and I now turn to the legislation that put the emergency response into effect.

***The Northern Territory National Emergency Response Act 2007; The Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other***

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<sup>1</sup> Will they be heard? at p34 and following;

<sup>2</sup> Will they be heard? at paras 171-3;

**Measures) Act 2007; The Social Services and Other Legislation Amendment (Welfare Payment Reform) Act 2007**

It was apparent to those advising the then Government that this legislation could not sit comfortably with the RDA because it clearly did involve racial discrimination against Aboriginal people in a number of ways too numerous to set out here but including the so called Income Management Regime.

It therefore became necessary to nullify the provisions of the RDA so far as those subject to that legislation were concerned and this was done, with the support of the then Opposition.

Ss 132 and 133 of the NTERA Act provided as follows:

S 132

***“Racial Discrimination Act***

***(1) The provisions of this Act, and any acts done under or for the purposes of those provisions, are, for the purposes of the [Racial Discrimination Act 1975](#), special measures.***

***(2) The provisions of this Act, and any acts done under or for the purposes of those provisions, are excluded from the operation of Part II of the [Racial Discrimination Act 1975](#).***

***(3) In this section, a reference to any acts done includes a reference to any failure to do an act.”***

S 133

***“Some Northern Territory laws excluded***

***(1) The provisions of this Act are intended to apply to the exclusion of a law of the Northern Territory that deals with discrimination so far as it would otherwise apply.***

***(2) Any acts done under or for the purposes of the provisions of this Act have effect despite any law of the Northern Territory that deals with discrimination.***

***Northern Territory laws that are not excluded***

***(3) However, subsections (1) and (2) do not apply to a law of the Northern Territory so far as the Minister determines, by legislative instrument, that the law is a law to which subsections (1) and (2) do not apply.***

***Reference to acts done includes failure to do an act.”***

*(4) In this section, a reference to any acts done includes a reference to any failure to do an act.”*

The other legislation underpinning the NTER contained similar provisions.

What is significant is that the legislation first asserted that what was being done in the NTER constituted ‘special measures’. This was untenable and it is highly unlikely that the simple assertion that the measures were special measures within the meaning of the Convention would have been upheld by a Court. To least of the problems would have been the difficulties involved in the complete lack of any consultation that accompanied the legislation either before or after it was enacted. It thus became necessary to effectively repeal the RDA in the areas affected by the NTER and this was achieved by s 132 (2). For good measure the Government simply overrode any inconsistent NT laws in s 133.

The Rudd Government’s amending Bill repeals all of these sections in an apparent attempt to indicate compliance with its election promises.<sup>3</sup> However, a careful examination of this legislation reveals how qualified that compliance is.

S 4 of schedule 1 of the amending Bill provides:

*“To avoid doubt:*

*(a) the repeal of sections of an Act by this Schedule does not have retrospective effect; and*

*(b) section 8 of the Acts Interpretation Act 1901 applies to the repeal (unaffected by any contrary intention)*

At first sight this appears to be unexceptionable. However what it does is to preserve the legal effect of everything that was done under the NTER legislation while protecting the Commonwealth from any claims for damages that might otherwise have arisen.

At the same time it highlights the ephemeral nature of the protection afforded by the RDA to victims of racial discrimination in Australia in that it confirms that such protection is very much in the hands of the Government of the day. This falls a long way short of the sort of constitutional guarantee that would be afforded by a Bill of Rights.

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<sup>3</sup> See Schedule 1 ss 1,2,3 and 4.

However an examination of the further provisions of the Bill reveals just how limited the effect of the so called repeal is. Nowhere is this more apparent than in the area of income protection.

### **Income Protection**

Schedule 2 of the Bill headed “Income management regime” first operates to repeal the definitions of Category A to category G welfare payments contained in s 123TC of the Social Security (Administration) Act. These categories of welfare payment commence with a definition of a Category A welfare payment as meaning:

- (a) a social security benefit; or
- (b) a social security pension; or
- (c) a payment under a scheme known as the ABSTUDY scheme that includes an amount identified as a living allowance.

The remaining categories include category A welfare payments but gradually widen the nature of the payments covered to include payments to include different types of payment such as baby bonuses etc.

The Bill in s 28 inserts a new Category E welfare payment definition into s 123TC that removes any reference to Aboriginal allowances such as ABSTUDY but is defined more broadly to include:

- (a) youth allowance; or
- (b) newstart allowance; or
- (c) special benefit); or
- (d) pension PP (single); or
- (e) benefit PP (partnered)

It repeals definitions of declared relevant, exempt and relevant Northern Territory areas from s 123 TC. Most importantly, it repeals s 123 UB of the Social Security Act which defines the persons subject to the income management regime by their presence or otherwise in relevant Northern Territory areas and s 123 UG which enabled the Secretary to declare certain people to be ‘**exempt Northern Territory persons**’. Various other consequential amendments are made directed at removing the association

between income management and the Northern Territory in an attempt to show that the new legislation is not in form discriminatory to Aboriginal persons.

However, the real test of the sincerity (or lack of it) of this approach is to be found in the ‘Saving and Transitional’ provisions of the new Bill and particular in Clause 23 because, despite the repeal of s 123 UB referred to above, it is preserved with full force and effect in relation to persons who were subject to it in the NT for a further period of 12 months from the date that the Bill becomes law. For these people, who include most of the Aboriginal population of the NT it is as if the repeal of the RDA has never happened.

Presumably the Government would seek to rely upon its so-called consultations with the people to justify this as a ‘special measure’ or alternatively will make a new declaration under the amended legislation to operate from the end of the 12 month transition period to continue with income management in those areas, relying upon the same ‘consultations’. We thus have the ironic situation that the very Act that purports to end racial discrimination and restore the RDA in fact perpetuates the discrimination that the original NTER legislation was designed to effect.

### **New Income Management Measures**

These are contained in part 2 of the Bill.

Clause 25 repeals paragraphs (a) to (f) of original s 123TA in the Social Security (Administration) Act which set out the criteria for a person becoming subject to the income management regime. These were:

- *A person may become subject to the income management regime because:*
  - (a) *the person lives in a declared relevant Northern Territory area; or*
  - (b) *a child protection officer of a State or Territory requires the person to be subject to the income management regime; or*
  - (c) *the person, or the person's partner, has a child who does not meet school enrolment requirements; or*
  - (d) *the person, or the person's partner, has a child who has unsatisfactory school attendance; or*
  - (e) *the Queensland Commission requires the person to be subject to the income management regime; or*

*(f) the person voluntarily agrees to be subject to the income management regime.*

The new criteria are as follows:

*(a) A child protection officer of a State or Territory requires the person to be subject to the income management regime; or*

*(b) the Secretary has determined that the person is a vulnerable welfare payment recipient; or*

*(c) the person meets the criteria relating to disengaged youth; or*

*(d) the person meets the criteria relating to long-term welfare payment recipients; or*

*(e) the person, or the person's partner, has a child who does not meet school enrolment requirements; or*

*(f) the person, or the person's partner, has a child who has unsatisfactory school attendance; or*

*(g) the Queensland Commission requires the person to be subject to the income management regime; or*

*(h) the person voluntarily agrees to be subject to the income management regime.*

It can be seen that the area criterion of the original legislation has been removed so that the section has universal application throughout Australia. However, it is also clear that the criteria are designed in such a way as to target Aboriginal people without expressly saying so, but may now encompass others as well. Further, the area criterion is introduced in a different way as hereafter appears.

Proposed s 123TB considerably expands the objects originally set out in s 123 TB as follows:

*“The objects of this Part are as follows:*

*(a) to reduce immediate hardship and deprivation by ensuring that the whole or part of certain welfare payments is directed to meeting the priority needs of:*

*(i) the recipient of the welfare payment; and*

*(ii) the recipient's children (if any); and*

*(iii) the recipient's partner (if any); and*

*(iv) any other dependants of the recipient;*

*(b) to ensure that recipients of certain welfare payments are given support in budgeting to meet priority needs;*

*(c) to reduce the amount of certain welfare payments available to be spent on alcoholic beverages, gambling, tobacco products and pornographic material;*

*(d) to reduce the likelihood that recipients of welfare payments will be subject to harassment and abuse in relation to their welfare payments;*

*(e) to encourage socially responsible behaviour, including in relation to the care and education of children;*

*(f) to improve the level of protection awarded to welfare recipients and their families*

This is clearly designed to provide a justification for the legislation upon a broader scale than if it was merely applied to an area largely occupied by Aboriginal people. However the legislation can be so confined at the discretion of the Minister as new s 123TFA makes clear. It reads:

*The Minister may, by legislative instrument, determine that:*

*(a) a specified State; or*

*(b) a specified Territory; or*

*(c) a specified area;*

*is a declared income management area for the purposes of this Part.*

Proposed ss 123UCA, UCB and UCC target persons ***within the declared income management area*** who are vulnerable welfare payment recipients, disengaged youth between 15 and 25, or long term welfare payment recipients.

Vulnerable welfare payment recipients are defined in proposed s 123UGA as people who are so determined as such by the Secretary of the relevant Department and there are various provisions for making new determinations and dealing with requests for reconsideration.

There are further provisions for the exemption of welfare payment recipients from income management by the Secretary subject to their working hours, whether or not they have dependent children and where there are children, there

are no more than 5 unexplained absences from school in each of the two preceding school terms. There are also provisions as to the nature and amount of deductions that may be made under income management such as for example the whole of any baby bonus (e.g. s123XJA(3))

There are also provisions encouraging persons to enter into voluntary income management agreements that need not be examined here.

What is quite clear is that the legislation gives unprecedented power to the Minister and the Secretary in respect of welfare recipients throughout Australia. However, what is also clear is that this is little more than a ruse to overcome the provisions of the RDA and that the real targets of the income management scheme are likely to be Aboriginal people including Aboriginal people living beyond the NT. It is little more than a clumsily disguised and cynical attempt to perpetuate racial discrimination against them.

I consider it to be highly unlikely that these powers will ever be used against welfare recipients generally, nor do I believe that it would be politically acceptable to do so.

Nevertheless, the very breadth of the legislation is an indication of how far this Government is prepared to go in order to maintain its income management regime. In my view it places unreasonable and unchecked powers in the hands of Ministers and bureaucrats and is a clear indication that they are not concerned with the rights of Aboriginal people or any other welfare recipients who are unfortunate enough to live in one of the areas affected.

### **Alcohol, Prohibited Material, Acquisition of rights title and interests in land, Licensing of Community Stores**

I do not propose to discuss these provisions in detail. They differ from the income management regime in that they do not purport to extend these provisions to the whole community or beyond the NT. They each contain an objects clause which is clearly designed to constitute each of these provisions as a special measure within the meaning of the Convention. For example as to alcohol, proposed Schedule 3 s6A states:

*The object of this Part is to enable special measures to be taken to reduce alcohol-related harm in Indigenous communities in the Northern Territory.*

Similarly in relation to prohibited material proposed Schedule 4 s98A states:



*The main object of this Part is to enable special measures to be taken to protect children living in Indigenous communities in the Northern Territory from being exposed to prohibited material.*

Similarly, in relation to the issue of acquisition of rights, title and interests in land proposed Schedule 5 s30A states:

*The object of this Part is to enable special measures to be taken to:*

*(a) improve the delivery of services in Indigenous communities in the Northern Territory; and*

*(b) promote economic and social development in those communities.*

Proposed Schedule 6 s91A states the object of licensing of Community Stores as follows:

*(1) The object of this Part is to enable special measures to be taken for the purpose of promoting food security for certain indigenous communities in the Northern Territory.*

*(2) In particular, this Part is to enhance the contribution made by community stores in the Northern Territory to achieving food security for certain Indigenous communities.*

While it may be arguable that all or some of these provisions could constitute special measures it is at least doubtful as to whether this can be achieved *ex post facto* as the Government has sought to do.

So far as alcohol is concerned it has also taken a number of additional steps in the legislation that are either designed to achieve this object or to take into account some of the concerns expressed during the consultations.

For example the compulsory posting of notices as to alcohol and pornography and the need to state penalties has been relaxed and a degree of consultation is allowed for as to these matters.

Similarly, the automatic designation of the whole of prescribed areas as a public place has been relaxed and the minister may not make a declaration in relation to a prescribed area or part of it as a public place unless requested to do so by a resident. There are also provisions for consultation and discussion and specific criteria are set out for the making of such a declaration.

Again in relation to prohibited material there is now a provision for the Minister to declare that the relevant part ceases to have effect in relation to a specified

prescribed area or part thereof and similar provisions for consultation as is the case with alcohol.

There are few changes to the leasing provisions contained in the NTER Act. One important one however is a provision that prevents the Commonwealth from engaging or permitting others to engage in mining on leased land. There is also a provision requiring the Commonwealth to have regard to the traditions, observances, custom and beliefs of Indigenous people generally or of particular groups of Indigenous persons in administering leases.

So far as community stores are concerned there are quite detailed provisions relating to their management but nothing that requires particular comment in this context.

The only amendment to the Australian Crime Commission Act 2002 is to the definition of Indigenous violence or child abuse which is defined as serious violence or child abuse committed against an Indigenous person.

### **Conclusion**

This is disappointing legislation which perpetuates the paternalism and racial discrimination inherent in the NTER. It is a disturbing extension of bureaucratic powers and the power of the executive over welfare recipients and seems to reflect a philosophy more in tune with that of the previous Government than what one would expect of a Labor Government.

Alastair Nicholson

6 January 2010

## **Appendix 4**

**Alastair Nicholson**

### **Social Security and Other Legislation Amendment (Welfare reform and Reinstatement of Racial Discrimination Bill 2009)**

#### **Notes and Comment**

In this document I have largely concentrated upon the income management measures, but it is worth noting that many other objectionable features of the NTER have not been addressed by the Government, nor were they addressed during the so-called ‘consultations’ by the Government with the Aboriginal communities. One obvious one is the differential treatment of Indigenous persons as to sentencing and bail applications with respect to issues of customary law which is obviously discriminatory.

In considering the Bill it is necessary to pay some regard to historical issues.

I refer first to some of the relevant provisions of the *Racial Discrimination Act 1975*.

S 9 of that act provides:

*“(1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.”*

S 10 provides:

*(1) If, by reason of, or of a provision of, a law of the Commonwealth or of a State or Territory, persons of a particular race, colour or national or ethnic origin do not enjoy a right that is enjoyed by persons of another race, colour or national or ethnic origin, or enjoy a right to a more limited extent than persons of another race, colour or national or ethnic origin, then, notwithstanding anything in that law, persons of the first-mentioned race, colour or national or ethnic origin shall, by force of this section, enjoy that right to the same extent as persons of that other race, colour or national or ethnic origin.*

Article 1, Para 4 of the International [Convention](#) on the Elimination of All Forms of Racial Discrimination, which appears as a Schedule to the Act and upon which the Act is based and which is incorporated into domestic law provides:

*“Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.”*

Article 2.2 provides:

*“States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.”*

The relationship between special measures, including these two Articles and the RDA is fully discussed in “Will they be heard?”<sup>1</sup>. As was there pointed out, one of the characteristics of special measures is that they are designed and implemented on the basis of *prior consultation* with affected communities and the active participation of such communities and may, if they have a potentially negative effect, only be special measures if enacted with the consent of the affected people.<sup>2</sup>

It is apparent that these provisions of the RDA and the requirements associated with special measures presented great difficulties to the Howard Government’s NTER proposals in 2007 and I now turn to the legislation that put the emergency response into effect.

***The Northern Territory National Emergency Response Act 2007; The Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other***

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<sup>1</sup> Will they be heard? at p34 and following;

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**Measures) Act 2007; The Social Services and Other Legislation Amendment (Welfare Payment Reform) Act 2007**

It was apparent to those advising the then Government that this legislation could not sit comfortably with the RDA because it clearly did involve racial discrimination against Aboriginal people in a number of ways too numerous to set out here but including the so called Income Management Regime.

It therefore became necessary to nullify the provisions of the RDA so far as those subject to that legislation were concerned and this was done, with the support of the then Opposition.

Ss 132 and 133 of the NTERA Act provided as follows:

S 132

***“Racial Discrimination Act***

***(1) The provisions of this Act, and any acts done under or for the purposes of those provisions, are, for the purposes of the [Racial Discrimination Act 1975](#), special measures.***

***(2) The provisions of this Act, and any acts done under or for the purposes of those provisions, are excluded from the operation of Part II of the [Racial Discrimination Act 1975](#).***

***(3) In this section, a reference to any acts done includes a reference to any failure to do an act.”***

S 133

***“Some Northern Territory laws excluded***

***(1) The provisions of this Act are intended to apply to the exclusion of a law of the Northern Territory that deals with discrimination so far as it would otherwise apply.***

***(2) Any acts done under or for the purposes of the provisions of this Act have effect despite any law of the Northern Territory that deals with discrimination.***

***Northern Territory laws that are not excluded***

***(3) However, subsections (1) and (2) do not apply to a law of the Northern Territory so far as the Minister determines, by legislative instrument, that the law is a law to which subsections (1) and (2) do not apply.***

***Reference to acts done includes failure to do an act.”***

*(4) In this section, a reference to any acts done includes a reference to any failure to do an act.”*

The other legislation underpinning the NTER contained similar provisions.

What is significant is that the legislation first asserted that what was being done in the NTER constituted ‘special measures’. This was untenable and it is highly unlikely that the simple assertion that the measures were special measures within the meaning of the Convention would have been upheld by a Court. To least of the problems would have been the difficulties involved in the complete lack of any consultation that accompanied the legislation either before or after it was enacted. It thus became necessary to effectively repeal the RDA in the areas affected by the NTER and this was achieved by s 132 (2). For good measure the Government simply overrode any inconsistent NT laws in s 133.

The Rudd Government’s amending Bill repeals all of these sections in an apparent attempt to indicate compliance with its election promises.<sup>3</sup> However, a careful examination of this legislation reveals how qualified that compliance is.

S 4 of schedule 1 of the amending Bill provides:

*“To avoid doubt:*

*(a) the repeal of sections of an Act by this Schedule does not have retrospective effect; and*

*(b) section 8 of the Acts Interpretation Act 1901 applies to the repeal (unaffected by any contrary intention)*

At first sight this appears to be unexceptionable. However what it does is to preserve the legal effect of everything that was done under the NTER legislation while protecting the Commonwealth from any claims for damages that might otherwise have arisen.

At the same time it highlights the ephemeral nature of the protection afforded by the RDA to victims of racial discrimination in Australia in that it confirms that such protection is very much in the hands of the Government of the day. This falls a long way short of the sort of constitutional guarantee that would be afforded by a Bill of Rights.

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<sup>3</sup> See Schedule 1 ss 1,2,3 and 4.

However an examination of the further provisions of the Bill reveals just how limited the effect of the so called repeal is. Nowhere is this more apparent than in the area of income protection.

### **Income Protection**

Schedule 2 of the Bill headed “Income management regime” first operates to repeal the definitions of Category A to category G welfare payments contained in s 123TC of the Social Security (Administration) Act. These categories of welfare payment commence with a definition of a Category A welfare payment as meaning:

- (a) a social security benefit; or**
- (b) a social security pension; or**
- (c) a payment under a scheme known as the ABSTUDY scheme that includes an amount identified as a living allowance.**

The remaining categories include category A welfare payments but gradually widen the nature of the payments covered to include payments to include different types of payment such as baby bonuses etc.

The Bill in s 28 inserts a new Category E welfare payment definition into s 123TC that removes any reference to Aboriginal allowances such as ABSTUDY but is defined more broadly to include:

- (a) youth allowance; or**
- (b) newstart allowance; or**
- (c) special benefit); or**
- (d) pension PP (single); or**
- (e) benefit PP (partnered)**

It repeals definitions of declared relevant, exempt and relevant Northern Territory areas from s 123 TC. Most importantly, it repeals s 123 UB of the Social Security Act which defines the persons subject to the income management regime by their presence or otherwise in relevant Northern Territory areas and s 123 UG which enabled the Secretary to declare certain people to be ‘**exempt Northern Territory persons**’. Various other consequential amendments are made directed at removing the association

between income management and the Northern Territory in an attempt to show that the new legislation is not in form discriminatory to Aboriginal persons.

However, the real test of the sincerity (or lack of it) of this approach is to be found in the ‘Saving and Transitional’ provisions of the new Bill and particular in Clause 23 because, despite the repeal of s 123 UB referred to above, it is preserved with full force and effect in relation to persons who were subject to it in the NT for a further period of 12 months from the date that the Bill becomes law. For these people, who include most of the Aboriginal population of the NT it is as if the repeal of the RDA has never happened.

Presumably the Government would seek to rely upon its so-called consultations with the people to justify this as a ‘special measure’ or alternatively will make a new declaration under the amended legislation to operate from the end of the 12 month transition period to continue with income management in those areas, relying upon the same ‘consultations’. We thus have the ironic situation that the very Act that purports to end racial discrimination and restore the RDA in fact perpetuates the discrimination that the original NTER legislation was designed to effect.

### **New Income Management Measures**

These are contained in part 2 of the Bill.

Clause 25 repeals paragraphs (a) to (f) of original s 123TA in the Social Security (Administration) Act which set out the criteria for a person becoming subject to the income management regime. These were:

- *A person may become subject to the income management regime because:*
  - (a) *the person lives in a declared relevant Northern Territory area; or*
  - (b) *a child protection officer of a State or Territory requires the person to be subject to the income management regime; or*
  - (c) *the person, or the person's partner, has a child who does not meet school enrolment requirements; or*
  - (d) *the person, or the person's partner, has a child who has unsatisfactory school attendance; or*
  - (e) *the Queensland Commission requires the person to be subject to the income management regime; or*



*(f) the person voluntarily agrees to be subject to the income management regime.*

The new criteria are as follows:

*(a) A child protection officer of a State or Territory requires the person to be subject to the income management regime; or*

*(b) the Secretary has determined that the person is a vulnerable welfare payment recipient; or*

*(c) the person meets the criteria relating to disengaged youth; or*

*(d) the person meets the criteria relating to long-term welfare payment recipients; or*

*(e) the person, or the person's partner, has a child who does not meet school enrolment requirements; or*

*(f) the person, or the person's partner, has a child who has unsatisfactory school attendance; or*

*(g) the Queensland Commission requires the person to be subject to the income management regime; or*

*(h) the person voluntarily agrees to be subject to the income management regime.*

It can be seen that the area criterion of the original legislation has been removed so that the section has universal application throughout Australia. However, it is also clear that the criteria are designed in such a way as to target Aboriginal people without expressly saying so, but may now encompass others as well. Further, the area criterion is introduced in a different way as hereafter appears.

Proposed s 123TB considerably expands the objects originally set out in s 123 TB as follows:

*“The objects of this Part are as follows:*

*(a) to reduce immediate hardship and deprivation by ensuring that the whole or part of certain welfare payments is directed to meeting the priority needs of:*

*(i) the recipient of the welfare payment; and*

*(ii) the recipient's children (if any); and*

*(iii) the recipient's partner (if any); and*

*(iv) any other dependants of the recipient;*

*(b) to ensure that recipients of certain welfare payments are given support in budgeting to meet priority needs;*

*(c) to reduce the amount of certain welfare payments available to be spent on alcoholic beverages, gambling, tobacco products and pornographic material;*

*(d) to reduce the likelihood that recipients of welfare payments will be subject to harassment and abuse in relation to their welfare payments;*

*(e) to encourage socially responsible behaviour, including in relation to the care and education of children;*

*(f) to improve the level of protection awarded to welfare recipients and their families*

This is clearly designed to provide a justification for the legislation upon a broader scale than if it was merely applied to an area largely occupied by Aboriginal people. However the legislation can be so confined at the discretion of the Minister as new s 123TFA makes clear. It reads:

*The Minister may, by legislative instrument, determine that:*

*(a) a specified State; or*

*(b) a specified Territory; or*

*(c) a specified area;*

*is a declared income management area for the purposes of this Part.*

Proposed ss 123UCA, UCB and UCC target persons ***within the declared income management area*** who are vulnerable welfare payment recipients, disengaged youth between 15 and 25, or long term welfare payment recipients.

Vulnerable welfare payment recipients are defined in proposed s 123UGA as people who are so determined as such by the Secretary of the relevant Department and there are various provisions for making new determinations and dealing with requests for reconsideration.

There are further provisions for the exemption of welfare payment recipients from income management by the Secretary subject to their working hours, whether or not they have dependent children and where there are children, there

are no more than 5 unexplained absences from school in each of the two preceding school terms. There are also provisions as to the nature and amount of deductions that may be made under income management such as for example the whole of any baby bonus (e.g. s123XJA(3))

There are also provisions encouraging persons to enter into voluntary income management agreements that need not be examined here.

What is quite clear is that the legislation gives unprecedented power to the Minister and the Secretary in respect of welfare recipients throughout Australia. However, what is also clear is that this is little more than a ruse to overcome the provisions of the RDA and that the real targets of the income management scheme are likely to be Aboriginal people including Aboriginal people living beyond the NT. It is little more than a clumsily disguised and cynical attempt to perpetuate racial discrimination against them.

I consider it to be highly unlikely that these powers will ever be used against welfare recipients generally, nor do I believe that it would be politically acceptable to do so.

Nevertheless, the very breadth of the legislation is an indication of how far this Government is prepared to go in order to maintain its income management regime. In my view it places unreasonable and unchecked powers in the hands of Ministers and bureaucrats and is a clear indication that they are not concerned with the rights of Aboriginal people or any other welfare recipients who are unfortunate enough to live in one of the areas affected.

### **Alcohol, Prohibited Material, Acquisition of rights title and interests in land, Licensing of Community Stores**

I do not propose to discuss these provisions in detail. They differ from the income management regime in that they do not purport to extend these provisions to the whole community or beyond the NT. They each contain an objects clause which is clearly designed to constitute each of these provisions as a special measure within the meaning of the Convention. For example as to alcohol, proposed Schedule 3 s6A states:

*The object of this Part is to enable special measures to be taken to reduce alcohol-related harm in Indigenous communities in the Northern Territory.*

Similarly in relation to prohibited material proposed Schedule 4 s98A states:

*The main object of this Part is to enable special measures to be taken to protect children living in Indigenous communities in the Northern Territory from being exposed to prohibited material.*

Similarly, in relation to the issue of acquisition of rights, title and interests in land proposed Schedule 5 s30A states:

*The object of this Part is to enable special measures to be taken to:*

*(a) improve the delivery of services in Indigenous communities in the Northern Territory; and*

*(b) promote economic and social development in those communities.*

Proposed Schedule 6 s91A states the object of licensing of Community Stores as follows:

*(1) The object of this Part is to enable special measures to be taken for the purpose of promoting food security for certain indigenous communities in the Northern Territory.*

*(2) In particular, this Part is to enhance the contribution made by community stores in the Northern Territory to achieving food security for certain Indigenous communities.*

While it may be arguable that all or some of these provisions could constitute special measures it is at least doubtful as to whether this can be achieved *ex post facto* as the Government has sought to do.

So far as alcohol is concerned it has also taken a number of additional steps in the legislation that are either designed to achieve this object or to take into account some of the concerns expressed during the consultations.

For example the compulsory posting of notices as to alcohol and pornography and the need to state penalties has been relaxed and a degree of consultation is allowed for as to these matters.

Similarly, the automatic designation of the whole of prescribed areas as a public place has been relaxed and the minister may not make a declaration in relation to a prescribed area or part of it as a public place unless requested to do so by a resident. There are also provisions for consultation and discussion and specific criteria are set out for the making of such a declaration.

Again in relation to prohibited material there is now a provision for the Minister to declare that the relevant part ceases to have effect in relation to a specified

prescribed area or part thereof and similar provisions for consultation as is the case with alcohol.

There are few changes to the leasing provisions contained in the NTER Act. One important one however is a provision that prevents the Commonwealth from engaging or permitting others to engage in mining on leased land. There is also a provision requiring the Commonwealth to have regard to the traditions, observances, custom and beliefs of Indigenous people generally or of particular groups of Indigenous persons in administering leases.

So far as community stores are concerned there are quite detailed provisions relating to their management but nothing that requires particular comment in this context.

The only amendment to the Australian Crime Commission Act 2002 is to the definition of Indigenous violence or child abuse which is defined as serious violence or child abuse committed against an Indigenous person.

### **Conclusion**

This is disappointing legislation which perpetuates the paternalism and racial discrimination inherent in the NTER. It is a disturbing extension of bureaucratic powers and the power of the executive over welfare recipients and seems to reflect a philosophy more in tune with that of the previous Government than what one would expect of a Labor Government.

Alastair Nicholson

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