



**Human Rights and Equal
Opportunity Commission**
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Submission of the

**HUMAN RIGHTS AND EQUAL OPPORTUNITY
COMMISSION (HREOC)**

to the

Senate Legal and Constitutional Committee

on the

**Northern Territory National Emergency
Response Legislation**

10 August 2007

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A. SUMMARY OF SUBMISSION

1. The Human Rights and Equal Opportunity Commission ('HREOC') makes this submission to the Senate Legal and Constitutional Committee Inquiry into the
 - Northern Territory National Emergency Response Bill 2007 ('NTNER Bill');
 - Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 ('the Social Security Bill'); and
 - Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007 ('FaCSIA Bill').
2. These are collectively described in this submission as the 'NTNER measures'.

Action is necessary

3. HREOC welcomes the recognition by the government of the serious, broad ranging social and economic disadvantage in many Indigenous communities. This recognition presents an historic opportunity to deal with a national tragedy.
4. HREOC strongly supports the aims of this legislative package, namely to improve the well-being of certain communities in the Northern Territory and to protect children.

Action must be consistent with rights

5. However, HREOC stresses that the legislation and action taken under it must seek to achieve its goals consistently with the fundamental right to racial equality. HREOC does not support the NTNER measures being exempt from the RDA.¹
6. These laws clearly have a number of significant actual and potential negative impacts upon the rights of Indigenous people which are discriminatory. The laws generally must therefore be justifiable as a 'special measure' taken for the

¹ See NTNER Bill clause 132; Social Security Bill clause 4; FaCSIA Bill clause 4.

advancement of Indigenous people to be consistent with human rights principles.² If the NTNER measures are not ‘special measures’, they should not be enacted.

7. HREOC submits that a fundamental feature of ‘special measures’ is that they are done following effective consultation with the intended beneficiaries and generally with their consent. The absence of effective consultation with Indigenous people concerning the NTNER measures is therefore a matter of serious concern.
8. HREOC accepts the need for urgent action. However, the success of that action both immediately and in the long term will depend upon effective consultation. And such consultation is fundamental to respecting the human rights of Indigenous people.
9. More broadly, HREOC is concerned that the NTNER measures are likely to produce unintended negative consequences that adversely impact upon the rights of Indigenous people. Some examples are given later in this submission: see section D below.

Recommendation: a review mechanism must be established

10. While it would clearly have been preferable for consultation with Indigenous people to have taken place prior to the passage of this legislation, HREOC recognises that these Bills are likely to pass through Parliament, given the bi-partisan support expressed for them and the need for urgent action. HREOC therefore urges that extensive consultation backed up with effective and culturally appropriate information campaigns occur as a matter of urgency.
11. HREOC’s submission proposes a structure for ongoing monitoring and an independent and public Parliamentary review after 12 months to seek to ensure that the goals of the proposed legislation are achieved in a manner that is consistent with human rights. Immediate steps should be taken to put in place an effective monitoring mechanism.

² Note, however that a law authorising management of property owned by Aboriginal and Torres Strait Islander people without their consent cannot be justified as a special measure under the RDA: see ss 8(1) and 10(3).

12. Monitoring must actively involve the Indigenous peoples in relevant communities to ensure that an accurate and representative assessment of the impacts can be made. The monitoring mechanisms must also be able to measure the progressive realisation of the economic and social rights of Indigenous peoples which is critical if their well-being is to improve as the legislation intends.

B. ACTION MUST BE CONSISTENT WITH RIGHTS

13. The *Racial Discrimination Act 1975* (Cth) ('RDA') implements Australia's international obligations under the *Convention on the Elimination of All Forms of Racial Discrimination* ('ICERD'). The RDA was Australia's first law to protect human rights and remains a cornerstone of human rights protection in Australia. Upholding the values of the RDA and ICERD is vital to ensuring community respect for government action and to maintain Australia's reputation as a nation committed to equality. As was noted in the Australian government's 1997 White Paper on foreign trade and policy:

Central to the values to which the Government gives expression is an unqualified commitment to racial equality and to eliminating racial discrimination. This is a non-negotiable tenet of our own national cohesion, reflected in our racial diversity, and it must remain a guiding principle of our international behaviour. The rejection of racial discrimination is not only a moral issue, it is fundamental to our acceptance by, and engagement with, the region where our vital security and economic interests lie. Racial discrimination is not only morally repugnant, it repudiates Australia's best interests.

14. While the NTNER measures are intended for the overall benefit of Indigenous communities, they also have a range of potentially significant negative impacts upon the rights of Indigenous people.
15. HREOC submits that the measures are potentially contrary to a range of rights of Indigenous people, including:
 - The right to equality before the law and the equal protection of the law (article 26 ICCPR);

- The right to self-determination (article 1 *International Convention on Civil and Political Rights* ('ICCPR'));
 - The right not to be arbitrarily deprived of property (article 17 *Universal Declaration of Human Rights* ('UDHR')); and
 - The right to social security (article 5(e)(iv) ICERD).
16. The potential for the proposed legislation to breach the fundamental rights of Indigenous people means that, at the very least, the operation of the legislation should it be enacted must be subject to very careful scrutiny.

C. IS THIS LEGISLATION A 'SPECIAL MEASURE'?

17. The proposed legislation asserts that it is a 'special measure' for the purposes of the RDA.³ This characterisation seeks to justify the otherwise discriminatory aspects of the legislation for the purposes of the RDA and ICERD.
18. However, as set out below, an essential feature of a special measure is that it is done in consultation with (and generally with the consent of) the people who are subject to it. The apparent lack of consultation prior to the introduction of the NTNER measures is therefore a matter of serious concern. HREOC submits that it is imperative that effective consultation immediately take place.

ICERD

19. Article 1(4) of ICERD 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

³ See NTNER Bill clause 132(1); Social Security Bill clause 4(2); FaCSIA Bill clause 4(1).

different racial groups and that they shall not be continued after the objectives for which they were taken to have been achieved.⁴

The need for effective consultation

20. Special measures are generally measures by way of ‘affirmative action’ or ‘positive discrimination’.⁵ The exemption in discrimination law made for special measures therefore aims to protect things done to benefit a disadvantaged group from challenge by non-members of the group. Legislation granting land rights to Aboriginal people was upheld by the High Court as being a ‘special measure’ in *Gerhardy v Brown*.⁶
21. Measures that may impact negatively on rights, such as limitations upon the availability of alcohol,⁷ may be considered ‘special measures’ where they are done after consultation with, and generally the consent of, the ‘subject’ group. Cases where consent is not obtained from those the subject of a measure must be very rare and limited to situations where there are competing rights or opinions within a group, as exist in relation to prohibitions on alcohol.
22. In the present case, the rights of children and the rights of adult individuals the subject of these proposed measures may differ, and this raises complex issues in relation to consent to ‘special measures’. It does not, however, deny the need for proper consultation.
23. Measures taken with neither consultation nor consent cannot meaningfully be said to be for the ‘advancement’ of a group of people, as is required by the definition of special measures.⁸
24. To take any other approach contemplates a paternalism that considers the views of a group as to their wellbeing irrelevant. Such an approach in the context of

⁴ See also article 2(2) which obliges States to take ‘special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purposes of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms’.

⁵ See, for example Theodor Meron, ‘The Meaning and Reach of the International Convention on the Elimination of All Forms of Racial Discrimination’ (1985) 79 *Am J. Int’l Law* 283, 305; Natan Lerner, *The UN Convention on the Elimination of All Forms of Racial Discrimination* (1980), 32; Natan Lerner, *Group Rights and Discrimination in International Law* (2nd ed, 2003), 182. See also analogous concepts in other Commonwealth legislation: *Sex Discrimination Act 1984* (Cth) s 7D; *Disability Discrimination Act 1992* (Cth) s 45; *Age Discrimination Act 2004* (Cth) s 33.

⁶ (1985) 159 CLR 70. See also *Bruch v Commonwealth* [2002] FMCA 29 in which Abstudy was challenged by a non-Indigenous person and upheld as a special measure.

⁷ See the *Alcohol Report*, HREOC (1995).

⁸ *Gerhardy v Brown* (1985) 159 CLR 70 Brennan J (135).

Indigenous people is contrary to their right to self-determination as well as undermining their dignity. Such an approach could allow for measures to be taken that would be ‘a step towards apartheid’.⁹

25. The present case can be contrasted with the introduction of the *Native Title Act 1993* (Cth) (‘the NTA’) in which Indigenous leaders were actively involved in negotiations surrounding its introduction.¹⁰
26. The need for consultation is particularly important in the context of the rights of Indigenous people. The Committee on the Elimination of Racial Discrimination has, in its General Recommendation XXIII, called upon parties to ICERD to:

ensure that members of indigenous peoples have equal rights in respect of effective participation in public life, and that no decisions directly relating to their rights and interests are taken without their informed consent...

Consent is needed for management of Aboriginal land

27. The need for consent is clearest in the context of the laws that make provision for the management of property owned by Aboriginal people. The RDA excludes from the ‘special measures’ exemption laws that authorise management of property without the consent of Aboriginal and Torres Strait Islander people or prevent them from terminating management by another of land owned by them.¹¹ To be consistent with the RDA, the measures relating to the management of land must be undertaken with the consent of the landowners.

The measures must be appropriate and adapted to the stated purpose

28. While it is appropriate to consider the effect of the package as a whole when determining whether it is a ‘special measure’, it is still necessary for its parts to be ‘appropriate and adapted’ to this purpose.¹²
29. Widespread concern is being expressed by Aboriginal communities that certain of the measures are not appropriate and adapted to the end of child protection.

⁹ Ibid.

¹⁰ See Strelein, Dodson and Weir, ‘Understanding non-discrimination: Native Title law and policy in a human rights context’ (2001) 3 *Balayi: Culture, Law and Colonialism* 113, 126.

¹¹ See ss 10(3), 8(1).

¹² *Gerhardy v Brown* (1985) 159 CLR 70, Mason J (105), Deane J (149).

These include the compulsory acquisition of property¹³ in circumstances where a lease has not been requested from the landowners¹⁴ and the changes made to the permit system.¹⁵

30. It is also of concern that the proposed legislation provides no guidance to decision-makers as to the requirements of special measures, nor does it require that the decision-maker exercise their discretion consistent with the purported beneficial purpose.
31. These concerns emphasise the need for extensive consultation even at this stage to explain these measures and the object of the legislation. Thereafter, it is of crucial importance that, in the administration of the proposed legislation, measures are delivered in ways that respect the wishes and aspirations of the relevant communities.
32. This also emphasises the need for effective monitoring and review of the implementation of the measures to ensure that only those that are appropriate and adapted to the purpose of child protection are maintained.

D. THE LEGISLATION MAY HAVE UNINTENDED NEGATIVE CONSEQUENCES

33. While the NTNER measures have the potential to bring positive change in Indigenous communities, there may also be unintended negative consequences.
34. The following are examples of where the measures may prove detrimental to the welfare of Indigenous peoples.

Phasing out CDEP may increase unemployment, movement to urban centres and the risk of family violence

35. Phasing out CDEP is likely to result in increased unemployment. Currently, there are approximately 7,500 people in the NT on CDEP. The ideal situation

¹³ See NTNER Bill Part 4.

¹⁴ Such a lease could be granted pursuant to s 19A of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

¹⁵ See FaCSIA Bill Schedule 4.

would be that those 7,500 people would be transitioned through Newstart to jobs in the open workplace.

36. However, the government expects that only about 2,000 CDEP participants will get 'real work'.¹⁶ It follows that the remaining 5,500 people are not expected to find sustainable employment and will remain on Work for the Dole.¹⁷
37. Many communities rely on the CDEP program to provide essential services, some of which are critical to improving law and order or the health of the community, such as night patrols, nutritional programs, garbage collection and sanitation programs. The government has said that critical services will continue to be provided by CDEP until other arrangements are in place. The legislation provides for a 'CDEP transition payment', but this will only be provided until 30 June 2008. After that time, former CDEP participants will be expected to have found employment, or they will remain on income support.
38. An audit of employment opportunities for Indigenous people in 52 remote communities in the NT was undertaken by the Local Government Association of the Northern Territory (LGANT) in 2006.¹⁸ Overall findings from the audit identified that there were only 2,955 'real jobs' across the 52 communities. According to the Audit Report, these positions were allocated across a reported population of 37,070 persons of which 2,722 were non-Indigenous.
39. Following the Minister's announcement that CDEP would be abolished in the NT, the Local Government Association of the Northern Territory (LGANT) commented that:

Remote Councils are already contacting LGANT with comments like '*CDEP is the backbone of our community and the ramifications to Indigenous business enterprises could be disastrous*'. Some of our members are saying that this decision could well mean the beginning of the end for many remote communities. Most people currently employed by CDEP will not get a permanent job and will have their income reduced by 18 percent. On top of

¹⁶ Brough, M. (Minister for Families, Community Services and Indigenous Affairs) and Hockey, J. (Minister for Employment and Workplace Relations), *Jobs and Training for Indigenous People in the NT*, Joint Media Release, 23 July 2007. Note: this figure is very optimistic as it assumes all jobs will be filled by local job seekers.

¹⁷ Altman, J., 'Neo-Paternalism and the Destruction of CDEP', forthcoming article in *Arena Magazine*, August–September 2007.

¹⁸ Local Government Association of the Northern Territory, *Audit of Employment Opportunities in Indigenous Communities in the NT*, 2006, available online at http://www.workplace.gov.au/NR/rdonlyres/8ECC6349-A689-4685-A954-663A3E29D977/0/nt_FINALREPORT.pdf accessed 9 August 2007.

this community stores, without the benefit of CDEP labour will need to increase prices.¹⁹

40. HREOC is also concerned that the removal of CDEP and lack of alternative employment options in Indigenous communities could lead to some people deciding to move into urban areas such as Darwin, Katherine and Alice Springs. This would exacerbate the current pressures in those areas in relation to available and appropriate housing and other essential services. Darwin already has the highest rate of homelessness in an urban setting on a national scale.²⁰
41. HREOC also notes that once CDEP participants leave that scheme and become welfare recipients, they will lose their ability to accrue superannuation.
42. It is well known that unemployment can create additional family pressures and general social unrest in a community. It is therefore possible that increased unemployment in communities will increase, rather than decrease, the risk of family violence.

Unintended negative consequences for Indigenous physical and mental health and well-being

43. International and domestic evidence links the mental health impacts of dispossession, the removal of children, loss of culture and a general sense of powerlessness that Indigenous peoples have experienced with the social dysfunction that is evident in some Indigenous communities.
44. For example, the landmark study by Chandler and Lalonde in Canada showed that those First Nations communities that had some form of self-government and settled land claims had much lower rates of youth suicide as a result. Those communities that did not, have excessively high suicide rates.²¹
45. Given the highly interventionist approach of several aspects of the government's emergency response, it is reasonable to expect that more

¹⁹ Local Government Association of the NT, 'Local Government Association calls for re-think on CDEP changes', Media Release, 24 July 2007, available at http://www.lgant.nt.gov.au/home/about_lgant/news_events/media_releases/local_government_association_calls_for_re_think_on_cdep_changes?PHPSESSID=48a46a425dfc9f25a944e0a02e044084 accessed 8 August, 2007.

²⁰ Goldie, C. PhD Thesis draft, UNSW.

²¹ Chandler, M. J., and Lalonde, C., *Cultural continuity as a hedge against suicide in First Nations youth*, 2000, available at <http://web.uvic.ca/~lalonde/manuscripts/1998TransCultural.pdf> accessed 9 August 2007.

functional communities will feel disempowered by measures that distance them from control over daily decision-making responsibilities. For example, the role and functions of the government business managers may have the unintended impact of undermining Indigenous authority structures and dispute resolution practices.

46. A respected Indigenous psychiatrist, Associate Professor Helen Milroy has advised HREOC that:

If the emergency measures that are proposed in the NT result in further disempowerment or a sense of extreme powerlessness, then this is a re-traumatisation and will have negative consequences on:

- a. Mental health including possibly higher rates of depression, stress and anxiety;
- b. Social and emotional wellbeing through increasing anxiety and uncertainty and hence this may precipitate family and community despair and dysfunction, poor or maladaptive coping and contribute to substance use and possible violence as well as loss of trust;
- c. Physical health as there is a strong relationship with chronic stress and poor health outcomes including diabetes and cardiovascular disease.

As well other possible adverse outcomes may include:

- Higher suicide rates including deaths in custody;
- Higher mental health problems if the disclosures of abuse are not handled appropriately;
- Higher rates of poor health or failure of follow up related to the lack of current services to deal adequately with the needs identified.²²

Quarantining welfare payments may increase the risk of violence against women

47. In the longer term under the national scheme, income quarantining measures designed to encourage school attendance may put the mother in a family in a very vulnerable situation.
48. Firstly, in those communities where the mother is the person who is responsible for her children, the father of children may 'blame' the mother for the quarantining of payments.
49. Secondly, Indigenous cultures often have care arrangements for children whereby aunties and others have responsibility for children, rather than the biological parents. Yet, if the children fail to attend school the payments of the

²² Milroy, H., (Associate Professor, Centre for Aboriginal Medical and Dental Health University of Western Australia) personal email correspondence with the Aboriginal and Torres Strait Islander Social Justice Commissioner, 9 August 2007.

mother and father will be quarantined. Again, this may expose a variety of women to potential 'blame' and violence.

Quarantining payments for school attendance may disproportionately impact on families in areas without adequate schools and teachers

50. Under the national scheme, the federal government is relying on the NT government to provide adequate school buildings and teachers despite the NT government's poor record in this area.
51. It is difficult to assess the exact numbers of students without access to primary and secondary education in the Northern Territory. There is no reliable public data about Indigenous school participation rates mapped against ABS population data. The NT Minister for Education, Mr Paul Henderson, cannot provide an actual figure of the number of school-aged children without access to primary and secondary education, though he does say that the number is 'significant'.²³
52. This situation is now urgent given that under the NTNER measures, carers of children will have their welfare payments quarantined if they do not send their children to school. The Northern Territory Government must assess where there is no school provision and make concerted efforts to provide reasonable school access for *all* school-aged Northern Territory children.

Amendments to the permit system may work against efforts to reduce substance abuse

53. Amendments to the permit system may mean that suppliers of drugs and alcohol will have easier access to communities which are trying to reduce substance abuse. This could have a particularly negative impact on those communities that are currently dry or have controlled the supply of alcohol.
54. HREOC is also concerned that removal of the permit system will open up Indigenous owned land to a range of uses that are incompatible and in some cases illegal. For example, recreational shooters may seek to take advantage of increased access to Aboriginal land to hunt, in conflict with the needs and

²³ Minister Paul Henderson, *Claims many NT Indigenous kids get no mainstream schooling*, ABC The World Today, 21 March 2007, available online at: <http://www.abc.net.au/worldtoday/content/2007/s1877912.htm>, accessed 9 August 2007.

interests of the local Indigenous population. Given that police will reasonably be expected to focus their work on policing near population centres, they may not be in a position to enforce those elements of the permit system that are to remain in place.

Alcohol bans may result in increased imprisonment of Indigenous peoples

55. Section 18 of the *Northern Territory National Emergency Response Bill 2007 (Cth)* provides that Division 4 of Part VII of the *Police Administration Act (NT)* applies to each prescribed area as if it were a public place. As a result:

Where a member [of NT Police] has reasonable grounds for believing that a person is intoxicated with alcohol or a drug and that that person is in a public place or trespassing on private property the member may, without warrant, apprehend and take that person into custody.For the purposes of carrying out his duties under subsection (1), a member may, without warrant, enter upon private property.²⁴

56. This provision will allow NT police to enter private property in prescribed areas to take someone into custody if they believe the person is drunk. There is the potential for people to resist the police, and to be arrested and charged.
57. In addition, many Indigenous people will not be able to pay the fines imposed for violating the alcohol bans. This is especially the case whether the person with the fines is under 100% income quarantining.
58. HREOC understands that the legislation provides for on-the-spot \$100 fines for personal alcohol use, at the discretion of NT police. Fines for bringing, supplying and transporting liquor invoke a \$1,100 fine for the first offence, and \$2,200 for the second offence. Higher level offences carry fines of \$74,800 or 18 month prison terms.
59. If failure to pay fines results ultimately in incarceration, it would clearly be a negative outcome for a community seeking to address the root cause of substance abuse. This is particularly the case in a community that already suffers from disproportionate incarceration rates.²⁵

²⁴ *Police Administration Act NT*, section 128(1) and (2).

²⁵ In the Northern Territory, 1416.3 per 100,000 Indigenous adults are imprisoned, compared to only 115.1 per 100,000 non Indigenous adults. See Productivity Commission, *Overcoming Indigenous Disadvantage 2007*, p 126. Available at <http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2007/index.html> accessed 8 August 2007.

Rapid interventions may result in undesirable compromises

60. HREOC is concerned that in the haste to intervene in Indigenous communities, a range of safe-guards and consultative processes may be compromised. For example, HREOC considers that all employees, contracted employees and volunteers entering Indigenous communities should be required to undergo police and child protection checks to ensure they do not pose a threat to the communities, yet this may not happen.
61. Further, in relation to the construction of Indigenous houses, construction by contractors might put more houses on the ground in the first year – but will they be appropriate to the needs and cultural preferences of the people they are intended for? Will there be Indigenous input into the design or location of the houses to ensure they meet the needs and aspirations of these communities?
62. Given the unemployment that exists in most of these communities, it might prove better to take the time to train and skill Indigenous people in the construction and maintenance of their own houses, wherever possible using Indigenous contractors who can assist.

E. NEED FOR THE LEGISLATION TO BE RENEWED AFTER 12 MONTHS OF IMPLEMENTATION

63. Given the complexity and breadth of the many novel measures proposed by the legislative framework, as the NTNER measures are implemented it is likely that unforeseen issues will arise, including unintended consequences of the kind mentioned above.
64. HREOC considers that it is critical to the long term success of the NTNER measures that:
 - a comprehensive scheme for monitoring progress and outcomes against benchmarks and targets be established as soon as possible; and
 - there be a public review at the end of the first 12 months of the operation and effectiveness of the NTNER measures with a view to recommending improvements and changes where necessary to ensure that each of the components of the new regime are advancing the wellbeing of the communities concerned.

65. It is also critical that Indigenous peoples living in the Northern Territory are able to directly contribute to both the monitoring and review processes to ensure that Indigenous peoples' experience of how the legislation has impacted on their lives and in their communities is conveyed to those undertaking the review.

Review by Parliamentary Committee

66. HREOC recommends that the review after 12 months be conducted by a Parliamentary Committee, and that the Committee be advised by an independent expert advisory committee, established by statute, which will also be the body charged with monitoring the NTNER measures.
67. This advisory committee should be formed within 8 weeks of the enactment of the legislation and adequately resourced to meet periodically, and to travel as necessary to inspect progress in the communities.
68. The advisory committee should provide a report to the Secretariat of the Parliamentary Committee after each of its monitoring meetings. This report should be a public document, but not include information that may endanger a person's safety, or prejudice an investigation or prosecution.
69. To assist the advisory committee in its monitoring work, it should receive the support of an adequately resourced secretariat.
70. The advisory committee should comprise a relatively small group and have a gender balance.²⁶ At least half its members should be Indigenous people living in the Northern Territory who hold respected positions in their community.
71. The remainder should include a mental health specialist and an expert in the implementation and monitoring of legislation, particularly as it affects Indigenous peoples and their ability to enjoy their human rights.

²⁶ The Security Legislation Review Committee was comprised of eight members.

What should the priorities of the advisory committee be?

72. If the bills are passed, the advisory committee should start immediately to identify the targets, indicators and benchmarks that will measure how the legislation is impacting on the well-being of Indigenous communities.
73. There are currently insufficient baseline measures in place to allow a comparison between the current circumstances of Indigenous peoples and how that changes following the implementation of the new legislation. It will therefore be important to put in place a baseline screen or to develop a retrospective approach.²⁷
74. This capacity to monitor, assess and improve on the implementation of the legislation is essential. It will also allow an assessment to be made as to whether the approach taken in the NT could benefit Indigenous communities in other locations.

What should the review cover?

75. The review should cover the operation of all legislative provisions which comprise the NTNER measures, and their operation, especially within Indigenous communities.
76. The terms of reference for the Parliamentary Committee should be broad in scope so that it can consider:
 - Whether the legislation has worked to achieve its intended purposes;
 - Whether there have been unintended negative consequences; and
 - Assess appropriate alternative approaches or mechanisms that would enhance the ability of the legislation to achieve its purpose.
77. The Parliamentary Committee should be required to:
 - invite and receive accept public written submissions;
 - hold public hearings in a variety of locations in the Northern Territory, including in remote areas; and
 - report to the Parliament as soon as practicable after the first anniversary of the enactment of the NTNER legislation, but within six months of commencing its review.

²⁷ Milroy, H., (Associate Professor, Centre for Aboriginal Medical and Dental Health University of Western Australia) personal email correspondence with the Aboriginal and Torres Strait Islander Social Justice Commissioner, 9 August 2007.

F. THE NEED FOR AN EFFECTIVE PUBLIC INFORMATION CAMPAIGN IN INDIGENOUS COMMUNITIES ACROSS THE NT

78. The NTNER legislation will introduce a vast array of complex and novel laws which will dramatically and suddenly impact on Indigenous communities. Many of the laws will carry serious penalties for non-compliance including significant monetary fines, quarantining of discretionary spending money, and prison terms for alcohol offences.
79. A culturally appropriate and effective public information campaign is critical to allay fears and ensure Indigenous communities understand how the NTNER measures will impact on them and what their new responsibilities are.
80. HREOC understands that Centrelink and the Ombudsman's Office intend to provide public information to Indigenous communities. This is welcome but it must be done in a comprehensive and culturally appropriate manner. It is critical that information does not add to the fear and confusion in Indigenous communities about the legislation.
81. The public information campaign needs to be far-reaching, targeted to remote communities, and in place well before the application of any penalties. Innovative strategies could include use of pictures and oral information sessions in Aboriginal languages. There must be information available on all aspects of the NTNER measures that affect members of the particular community.
82. For the past three years, HREOC has emphasised to government the importance of undertaking broad-based community education in Indigenous communities about human rights, family violence and customary law. These proposals have been considered in light of the Ministerial Summit on Family Violence in 2006, as well as through the regular budgetary process. HREOC submits that it would be prudent and timely for government to fund such educative work to be undertaken nationally, but immediately in the NT.

G. CONCLUSION

83. Upholding the values of the RDA is vital to ensuring community respect for government action and to maintain Australia's reputation as a nation committed to equality.
84. Putting in place additional safeguards in the form of a public independent review by a Parliamentary Committee, supported by an independent expert advisory committee, as well as an effective public information campaign, are critical to ensuring the NTNER measures achieve their goal of improving the wellbeing of Indigenous people.