

Submission

THIS SUBMISSION WAS PREPARED BY THE FEDERATION OF COMMUNITY LEGAL CENTRES (VIC) INC, IN CONSULTATION WITH MEMBER CENTRES

February 2010

Inquiry into the

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

and the

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

along with the

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



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Acknowledgements

This submission has been prepared by Ben Schokman, Human Rights Law Resource Centre, on behalf of the Federation of Community Legal Centres (Victoria).

About the Federation of Community Legal Centres (Vic) Inc

The Federation is the peak body for fifty one community legal centres across Victoria. A full list of our members is available at <http://www.communitylaw.org.au> .

The Federation leads and supports community legal centres to pursue social equity and to challenge injustice.

The Federation:

- provides information and referrals to people seeking legal assistance
- initiates and resources law reform to develop a fairer legal system that better responds to the needs of the disadvantaged
- works to build a stronger and more effective community legal sector
- provides services and support to community legal centres
- represents community legal centres with stakeholders

The Federation assists its diverse membership to collaborate for justice. Workers and volunteers throughout Victoria come together through working groups and other networks to exchange ideas and develop strategies to improve the effectiveness of their work.

About community legal centres

Community legal centres are independent community organisations which provide free legal services to the public. Community legal centres provide free legal advice, information and representation to more than 100,000 Victorians each year.

Generalist community legal centres provide services on a range of legal issues to people in their local geographic area. There are generalist community legal centres in metropolitan Melbourne and in rural and regional Victoria.

Specialist community legal centres focus on groups of people with special needs or particular areas of law (eg mental health, disability, consumer law, environment etc).

Community legal centres receive funds and resources from a variety of sources including state, federal and local government, philanthropic foundations, pro bono contributions and donations. Centres also harness the energy and expertise of hundreds of volunteers across Victoria.

Community legal centres provide effective and creative solutions to legal problems based on their experience within their community. It is our community relationship that distinguishes us from other legal providers and enables us to respond effectively to the needs of our communities as they arise and change.

Community legal centres integrate assistance for individual clients with community legal education, community development and law reform projects that are based on client need and that are preventative in outcome.

Community legal centres are committed to collaboration with government, legal aid, the private legal profession and community partners to ensure the best outcomes for our clients and the justice system in Australia.

Introduction

The Federation welcomes the opportunity to make this submission to the Inquiry into the Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009, the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009, and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009.

We are particularly concerned about three aspects of the proposed amendments contained in the Bills:

- (a) the fact that the *Racial Discrimination Act 1975* will not be fully reinstated until 31 December 2010;
- (b) the expansion of compulsory income management provisions to apply across the Northern Territory; and
- (c) the continuation of other Northern Territory Emergency Response measures in a way that is racially discriminatory and cannot be justified as 'special measures'.

Racial Discrimination Act 1975 must be immediately reinstated in full

The continued suspension of the operation of the *Racial Discrimination Act 1975* with respect to the Northern Territory Emergency Response measures represents a fundamental breach of international human rights law and Australia's international legal obligations. The Federation strongly recommends that the Bills be amended to ensure that the reinstatement of the *Racial Discrimination Act 1975* is effective immediately and that the Act applies without restriction to all aspects of the Northern Territory Emergency Response.

Expansion of Compulsory Income Management

The Federation is extremely concerned about the expansion of income quarantining across the Northern Territory, and indications from the Federal Government that this is the first step in a roll out of income management across the whole of Australia. Mandatory and non-discretionary income quarantining is likely to severely impact on many clients of community legal centres across the country.

We are particularly concerned about:

- (a) the lack of evidence to demonstrate the effectiveness of income quarantining as a way to address poverty, disadvantage and social exclusion; and
- (b) the lack of adequate consultation with affected communities.

The Federation considers that compulsory income management is punitive in nature and is an entirely disproportionate measure that is likely to adversely affect a range of disadvantaged and marginalised communities. Further, the consultations undertaken by the Federal Government have been manifestly inadequate and cannot be used to justify the continued operation of income management.

The Federation recommends that the income management provisions of the Bills, if retained, must be amended to ensure that the scheme is entirely voluntary.

Other Measures Must Not Be Discriminatory

The Federation is also concerned that other measures of the Northern Territory Emergency Response have not been redesigned to ensure that they are 'special measures' and therefore compliant with the *Racial Discrimination Act 1975*. Instead, the Bills simply propose to alter the objects clause of each of the measures to state that the measures are intended to be special measures. The Federation recommends that each of the measures must be properly amended to ensure that they are properly 'special measures' or non-discriminatory consistent with the *Racial Discrimination Act 1975*.

In conclusion, the Federation considers that the provisions contained in the Bills must be amended to ensure that the Northern Territory Emergency Response measures comply with Australia's international human rights obligations. In this respect, the Federation endorses the submission of the Human Rights Law Resource Centre, which discusses relevant human rights standards and principles.