



**Submission to the Senate Inquiry on the Welfare Reform and Reinstatement  
of Racial Discrimination Act Bill 2009**

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**Submitted by**

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(NAPCAN)**

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## Executive Summary

NAPCAN welcomes the opportunity to provide a Submission to the Senate Inquiry into the proposed redesign of the Northern Territory Emergency Response (NTER).

While supporting the Government's efforts to improve the living standards of children in NTER communities, NAPCAN strongly supports the greater development of policies that are *evidence-based*.

As detailed in our Submission, NAPCAN's position and recommendations are as follows:

1. Broad support of the proposed NTER reforms because they put the best interests of children in the forefront of social welfare policy and cease the structural racial discrimination of the NTER. However, NAPCAN acknowledges there are serious risks in an interventionist approach. Therefore, NAPCAN recommends certain modifications and initiatives to further strengthen the Government's reforms to ensure the safety and wellbeing of children;
2. Investment in primary prevention measures to stop child abuse and neglect before it starts;
3. Investment in substantial broader community education initiatives;
4. Limited compulsory income management with ability to "opt-in";
5. Financial management courses to complement income management;
6. Adoption of a model comparable to the Cape York model; and
7. Rigorous evaluation of NTER.

## About NAPCAN

NAPCAN is Australia's leading advocate for the prevention of child abuse and neglect. Founded in 1987, it is a national, independent, charitable organisation. Its mission is to prevent child abuse and neglect and to ensure the safety and wellbeing of every Australian child.

NAPCAN seeks to motivate and empower all adults to bring about the changes that will prevent child maltreatment by promoting the conduct and dissemination of sound research, informing public awareness and attitudes to children, advocating for changes in legislation and public policy that put the needs and rights of children first, and promoting programs and services which are effective in supporting vulnerable children and families, developing resilience in children and young people, and facilitating social inclusion and child friendly communities.

The United Nations Convention on the Rights of the Child, which Australia ratified in 1990, underpins NAPCAN's commitment to action.<sup>1</sup> The treaty requires the Federal Government to:

<sup>1</sup> See <http://www2.ohchr.org/english/law/crc.htm>

... take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.<sup>2</sup>

### **NAPCAN context on NTER**

NAPCAN's submission will concentrate on those aspects of the NTER that have an impact on the protection of children's human rights, in particular, the right to protection from abuse and neglect.

There is no analysis, to NAPCAN's knowledge, of the effectiveness of using income management to prevent child abuse or neglect. Evaluation of the WA, Cape York and NT programs is yet to be completed.

Although the evidence is scant, NAPCAN acknowledges that the Government conducted extensive consultations with the 73 NTER communities in the second half of 2009. Although there have been criticisms of the consultations, the feedback that they have documented *in relation to children's safety and health* is positive. According to the Government, the affected communities' priorities in the consultations were: "family and community violence, the wellbeing of children, the elderly and the vulnerable, and alcohol and drug misuse".<sup>3</sup>

NAPCAN is not qualified to comment on all aspects of the NTER redesign proposal, but believes that the Government's proposal to:

- reinstate the *Racial Discrimination Act*;
- limit income management regime to targeted groups, not all welfare recipients;
- strengthen measures to control pornography and alcohol abuse;
- strengthen law enforcement; and
- improve provision of quality food

has the potential to greatly improve the lives of some of Australia's most vulnerable children. Young children who are abused and neglected are voiceless and powerless. Under the proposed measures, more money will be spent on children's basic needs, and less on "non-essential items" that are potentially harmful to children (such as alcohol).

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<sup>2</sup> Article 19(1), Convention on the Rights of the Child

<sup>3</sup> Australian Government, *Policy statement: Landmark reform to the welfare system, reinstatement of the Racial Discrimination Act and strengthening of the Northern Territory Emergency Response*, p5

## NAPCAN recommendations

1. **Broad support of proposed NTER reforms:** NAPCAN broadly supports the reforms because they put the best interests of children in the forefront of social welfare policy and cease the structural racial discrimination of the NTER.

However, NAPCAN acknowledges there are serious risks in an interventionist approach. Therefore, NAPCAN recommends certain modifications and initiatives, as outlined below, to further strengthen the Government's reforms to ensure the safety and wellbeing of children.

2. **Investment in primary prevention measures to stop child abuse and neglect before it starts.** NAPCAN recommends as a priority, the Government allocate significant resources to child abuse prevention measures, such as:

- universal pre and post-natal home visiting services, which include the provision of information, advice and support to parents regarding infants' needs;
- access to child care/respice care;
- preschool for all four year olds;
- accessible public transport;
- housing.

### *Commentary:*

NAPCAN is concerned that the main focus of the NTER is not on preventing harm and that therefore *more targeted* investments to directly reduce child abuse and neglect are required.

There is strong international evidence that promoting more socially connected communities which are responsive to children and families is highly effective in preventing the abuse and neglect of children. Experts have consistently advocated for the development of family support services and programs with a focus on prevention of child maltreatment, particularly in Indigenous communities.

NAPCAN acknowledges that some child abuse prevention measures are either already in place or plans well underway, but urges the Government to ensure adequate and sustained resourcing. The Government must make a significant investment in community-based family support services in order to address child abuse and neglect. The priority must be on primary prevention and early intervention activities. As SNAICC's Ten Point National Action Plan puts it:

"Disempowered communities with woeful housing, extreme poverty, chronic alcohol and substance abuse, few early childhood programs or health services, no economic base and inadequate schools are likely to have high rates of abuse and neglect. Well

planned large scale investment over generations is required to create safe and healthy communities for all Australian children.”<sup>4</sup>

**3. Investment in substantial broader community education initiatives:**  
NAPCAN recommends the Government invest in substantial broader community education initiatives:

1. Protecting children from sexual abuse requires a much greater investment in community education, personal safety education for parents and the children, and behavioural programs to address sexually inappropriate actions by adults, young people and children.
2. Further, there is a need to invest in community-based and corrections-based sex offender (and physical violence) offender programs.

*Commentary:*

To date there has been negligible actual change in the Northern Territory environment to address the above needs.

NAPCAN strongly endorses the NTER’s alcohol and pornography restrictions as there is clear evidence that exposure is harmful to children, and strong community desire to maintain the restrictions. However, there are substantial broader community education needs that have been missing from all governments’ responses since the ‘Little Children are Sacred’ report: ensuring communities, families and children understand what appropriate parenting is, understanding what non-Indigenous Australia (and statutory authorities) consider to be harmful, abusive or neglectful, parenting education programs to improve parents’ ability to care for their children. Despite these issues receiving high prominence, they have essentially been overlooked.

**4. Limited compulsory income management with ability to “opt-in”:**  
Rather than income management for all members of four targeted groups, NAPCAN recommends two gateways to income management:

1. compulsory income management for families in the following categories:
  - a. where Centrelink has assessed that the way in which household income is being spent is harmful to children; or
  - b. people formally referred to Centrelink for income management by a prescribed group of professionals (for example, child and maternal nurses or child protection workers).
2. an option to “opt-in” for everybody else. Voluntary income management should be easily available for those who request it, as in the Cape York trial.

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<sup>4</sup> From Secretariat of National Aboriginal and Islander Child Care Inc., *Submission to Northern Territory Emergency Response (NTER) Review Board*, August 2008.

*Commentary:*

NAPCAN agrees with the Government that “the first call on welfare payments should be the life essentials and the interests of children”.<sup>5</sup> NAPCAN believes that children’s safety and well-being must be the Government’s first priority.

However, NAPCAN sees no merit in subjecting responsible families to compulsory income management. NAPCAN does not support rolling out compulsory income management to entire categories of welfare recipients, as this discourages financial independence and personal responsibility and could be highly damaging for those families who manage their money well.

For young people aged 15-24, for instance, compulsory income management would be a disincentive to plan one’s own budget. Rather than investing public funds in quarantining welfare payments of “disengaged youth”<sup>6</sup>, NAPCAN believes that a more sustainable option would be to train these identified young people in budget management and life skills. Centrelink could play a useful role here: if a young person is able to avoid debt while receiving Centrelink payments, there would be no need for financial counselling or compulsory income management. However, if the young person does need help, Centrelink is well-placed to refer them to training programs.

NAPCAN notes that the baby bonus is no longer paid as a lump sum and instead is paid in 13 fortnightly instalments to all recipients. NAPCAN believes this is a positive and sensible measure.

- 5. Financial management courses to complement income management:** NAPCAN recommends that anyone on income management – whether voluntary or compulsory – must be offered practical financial management courses.

*Commentary:*

This kind of early intervention is far more sensible policy than any form of blanket income quarantining.

- 6. Adoption of a model comparable to the Cape York model:** NAPCAN recommends adoption of a model comparable to the Cape York model (in

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<sup>5</sup> Australian Government, *Policy statement: Landmark reform to the welfare system, reinstatement of the Racial Discrimination Act and strengthening of the Northern Territory Emergency Response*, p8

<sup>6</sup> According to Minister Macklin, the rationale for including 15-24 year olds in the targeted categories of people is that “if you’ve been on unemployment benefits or parenting payment for more than three months, you’ll be income managed because we’re very concerned that for young people, disengagement starts very quickly, and we want to get in there and help people as soon as we can.” (interview with Leon Byner, 5AA morning show, 30 November 2009, available at [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/welfare\\_reform\\_30nov09.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/welfare_reform_30nov09.htm))

which those people subject to income management are decided on a case-by-case basis and it is community-managed<sup>7</sup>), pending the results of the independent evaluation of that model.<sup>8</sup> Specifically:

1. NAPCAN supports tailored solutions for each community, developed and run by community members, with adequate funding and support from Government.
2. Certain principles are non-negotiable. Children's safety and well-being must come first. But, within broad parameters (eg. school attendance, improved child health) each community must have the opportunity to develop and manage welfare programs that fit it, not one size fits all.

*Commentary:*

In Cape York there is community ownership of reform: community members can inform the Family Responsibility Commission about families who habitually hold all-night parties, for instance. Critically, there is a range of supportive interventions to help people *before* they are put on income management, in contrast to the "top-down" intervention in the NT.<sup>9</sup> Case managers visit individual families and help them access support services. The Family Responsibility Commission can order compulsory income management, but as a last resort where people have been unsuccessfully referred to support services.

7. **Rigorous evaluation of NTER:** NAPCAN recommends the inclusion of a rigorous and fulsome evaluation of the impact on family functioning of the NTER, as part of its 2011/12 evaluation.

*Commentary:*

The expansion and redesign of the NTER needs to be rigorously evaluated to establish its benefits for the safety and wellbeing of children and young people. As Reconciliation Australia notes, relying on "anecdotal evidence to indicate that income quarantining is successful in achieving its objectives of increased parental responsibility, financial responsibility and community safety will not be sufficient in evaluating the measures in 2012."<sup>10</sup>

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<sup>7</sup> See <http://www.capeyorkpartnerships.com/cape-york-welfare-reform>

<sup>8</sup> KPMG is currently conducting an evaluation of the \$48 million Cape York welfare reform trial, to be completed by mid-2010. See <http://www.brisbanetimes.com.au/queensland/auditors-to-review-apes-targeting-of-truancy-20091030-hp5q.html>

<sup>9</sup> Billings, Peter, "Social welfare experiments in Australia: more trials for Aboriginal families?" forthcoming, (2010) 17 *Journal of Social Security Law*, pp8-9.

<sup>10</sup> Reconciliation Australia, *SUCCESS OF NEW NTER FRAMEWORK DEPENDS ON GENUINE ENGAGEMENT AND COMMUNICATION*, 25 November 2009. Media release unavailable online.

## Australia's obligations under the Convention on the Rights of the Child

NAPCAN believes that the Government can do more to implement the Convention on the Rights of the Child, in particular regarding the child's right to protection from abuse and neglect (see under recommendations 2 and 3 above).

NAPCAN would like to take this opportunity to note the Government's major international legal obligations to children, pertinent to the present Inquiry, namely:

- **The best interests of the child must be a primary consideration in all actions concerning children:**<sup>11</sup> NAPCAN recommends that, in future, the Government conduct a child impact assessment *early* in the process of developing any policy and legislation that will affect children.
- **Non-discrimination:** the Convention on the Rights of the Child requires the Government to protect children from all forms of discrimination.<sup>12</sup> Giving special attention to disadvantaged or vulnerable groups is not discrimination. The Convention states that throughout the world, "there are children living in exceptionally difficult conditions, and that such children need special consideration..."<sup>13</sup> NAPCAN has no objection to the Government taking measures that recognise special protection for certain children.

NAPCAN strongly endorses the reinstatement of the *Racial Discrimination Act 1975*.

- **Adequate standard of living:** Living conditions – including housing, clothing and nutrition - are intrinsically linked with child development. The Government's report on its consultations includes several comments from parents and health professionals about improved children's living standards.<sup>14</sup>
- **Participation by children and young people in decisions that affect them:** There has been some criticism of the nature of the consultations conducted in the latter half of 2009.<sup>15</sup> From NAPCAN's perspective, the most worrying element is that children and young people's views were not obtained. Therefore all feedback about children is second-hand, mostly via caregivers or public health workers.

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<sup>11</sup> Article 3, Convention on the Rights of the Child

<sup>12</sup> Article 2, Convention on the Rights of the Child

<sup>13</sup> Preamble, Convention on the Rights of the Child.

<sup>14</sup> Australian Government, *Report on the Northern Territory Emergency Response Consultations* (2009), p22

<sup>15</sup> For instance, Jumbunna Indigenous House of Learning, *Will They Be Heard? - a response to the NTER Consultations June to August 2009*, November 2009.



- **Health:** All Australian children have the right to “the highest attainable standard of health”.<sup>16</sup> The Government’s report on its consultations shows positive health outcomes for children in NTER communities.
- **Benefit from social security:** The Convention on the Rights of the Child states that:

States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law. ...<sup>17</sup>

The Government’s report on its consultations shows that children are benefiting from more social security money being spent on them.<sup>18</sup>

- **Education:** the Government could *support communities* to develop a range of strategies to improve education outcomes for children. The Cape York model is a good starting point. The Convention on the Rights of the Child states that:

States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall... [t]ake measures to encourage regular attendance at schools and the reduction of drop-out rates.<sup>19</sup>

The proposed reforms include an incentive to opt-out of income management if parents can show that their children are regularly attending school. There is some international evidence on the effectiveness of such measures. In the 1980s and 1990s, some US state governments introduced schemes making school attendance a condition of welfare cash assistance.<sup>20</sup> Only programs that combined expanded *case management* with sanctions, support services and financial incentives for school attendance had positive results, with case management being the critical ingredient for success.

In the Central Land Council’s review of the NTER, based on interviews with members of six of the affected communities, the NTER had not had an impact on school enrolment and attendance figures. Communities had taken *their own initiatives* to improve attendance, such as shops not serving children in school hours, “no school no sport/pool” rules, teachers collecting students and voluntary truant officers.<sup>21</sup>

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<sup>16</sup> Article 24(1), Convention on the Rights of the Child

<sup>17</sup> Article 26, Convention on the Rights of the Child

<sup>18</sup> Australian Government, *Report on the Northern Territory Emergency Response Consultations* (2009), pp22-23

<sup>19</sup> Article 28(1) Convention on the Rights of the Child

<sup>20</sup> Jumbunna Indigenous House of Learning, *Welfare payments and school attendance: An analysis of experimental policy in Indigenous education*, University of Technology Sydney, August 2008, at p9.

<sup>21</sup> Central Land Council, *Northern Territory Emergency Response: perspectives from six communities* (July 2008), available at [http://www.clc.org.au/Media/issues/intervention/intervention\\_intro.html](http://www.clc.org.au/Media/issues/intervention/intervention_intro.html)

## Conclusion

While supporting the Government's efforts to improve the living standards of children in NTER communities, NAPCAN strongly supports the greater development of policies that are *evidence-based*.

NAPCAN acknowledges that while some of its above recommendations are either already in place or plans well underway, it urges the Government to ensure adequate and sustained resourcing.

NAPCAN thanks the Committee for the opportunity to contribute to its Inquiry.

NAPCAN also welcomes the opportunity to continue its engagement with the Committee to ensure the best interests of children remain at the forefront of social welfare policy.