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Senate Standing Committee on Community Affairs
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Canberra ACT 2600
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Contact:
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Senate Community Affairs Legislation Committee

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

The Victorian Council for Civil Liberties Inc—Liberty Victoria—is an independent non-government organization which traces its history back to the first civil liberties body established in Melbourne in 1936. Liberty is committed to the defence and extension of human rights and civil liberties. It seeks to promote Australia’s compliance with the rights and freedoms recognised by international law. Liberty’s contribution is well known to Senate and House committees, and we have campaigned extensively in the past on issues concerning human rights and freedoms, equality, democratic processes, government accountability, transparency in decision-making and open government.

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Liberty Victoria welcomes the opportunity to make a submission to the Senate Community Affairs Legislation Committee in relation to this bundle of Bills.

Liberty Victoria shares the concerns of various other human rights and welfare agencies regarding the inappropriateness of suspending the Racial Discrimination Act for the purposes of installing the so called 'Northern Territory Intervention'. The intervention was established through the enactment of the *Northern Territory National Emergency Response Act 2007* (Cth) ('**NTNER Act**'); *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007* (Cth) ('**Welfare Payment Reform Act**'); *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007* (Cth) ('**FaCSIA Amendment Act**'). As all of this legislation specifically targeted Australian Indigenous communities, it became necessary to suspend the operation of the *Racial Discrimination Act 1975* (Cth) in respect of all acts and omissions under or for the purposes of the Intervention package.

Liberty Victoria welcomes any move the Government makes towards the reinstatement of the *Racial Discrimination Act* in the Northern Territory, in accordance with Australia's international obligations.

Liberty Victoria wishes to endorse the submission made by the Human Rights Law Resource Centre (HRLRC) on 1 February 2010.

Liberty Victoria finds the HRLRC submission to be thorough, comprehensive, holistic and intelligent. Liberty Victoria wholly endorses the HRLRC submission and the recommendations contained within.

Recommendation 1:

A human rights approach must be adopted to the proposed amendments to the Northern Territory Intervention measures contained in the Government Bills in order to:

- (a) comply with Australia's international human rights obligations;
- (b) enhance policy making and ensure that measures designed to address Aboriginal disadvantage are effective; and
- (c) promote a community based approach by empowering and supporting Aboriginal communities.

Recommendation 2:

In ensuring that the proposed amendments contained in the Government Bills are compatible with Australia's international legal obligations, the Senate Community Affairs Legislation Committee should have regard to relevant human rights standards and principles enshrined in international law.

Recommendation 3:

The Senate Community Affairs Legislation Committee's review of the Government Bills should involve an assessment of whether cogent and compelling evidence has been

provided which demonstrates that the limitations imposed by the proposed amendments to the Northern Territory Intervention measures are:

- (a) for a legitimate and pressing purpose;
- (b) strictly necessary and proportionate to the purpose; and
- (c) demonstrably justifiable.

Recommendation 4:

The HRLRC & Liberty Victoria strongly recommend that the *Racial Discrimination Act 1975* (Cth) and the Northern Territory and Queensland anti-discrimination laws be reinstated to take effect

immediately and without any conditions. Further, for the avoidance of any doubt, the HRLRC & Liberty Victoria consider that the Government Bills must be amended to include a “notwithstanding clause” to clarify and ensure that the *Racial Discrimination Act 1975* (Cth) is fully reinstated in respect of all Northern Territory Intervention measures.

Recommendation 5:

The HRLRC & Liberty Victoria strongly support the passage of the Greens Bill.

Recommendation 6:

The HRLRC & Liberty Victoria recommend that the Government Bills be amended to remove the compulsory nature of the income management scheme, and that the scheme be replaced with voluntary income management.

Recommendation 7:

The Government Bills should be amended to ensure that the Northern Territory Intervention measures can be properly classified as “special measures”. Such amendments should include:

- (a) genuine and effective involvement of affected communities in the design and development of such measures; and
- (b) voluntary application of the measures.

Yours sincerely

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