



LAYNHAPUY HOMELANDS ASSOCIATION INC.

POST OFFICE BOX 1546, NHULUNBUY

NORTHERN TERRITORY, 0881

ADMINISTRATION

AVIATION

HEALTH

Telephone

(08) 8939-1800

(08) 8987-3155

(08) 8939-1821

Facsimile

(08) 8987-1443

(08) 8987-1455

(08) 8987-1109

Senator Moore
Chairperson
Senate Community Affairs Legislation Committee

Dear Senator Moore

Re : Inquiry into

- **Social Security and Other Legislation Amendment (Welfare reform and Reinstatement of Racial Discrimination Act) Bill 2009**
- **Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009**
- **Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009**

I wish to belatedly acknowledge the invitation from the Committee to Laynhapuy Homelands Association Inc. (LHAI) to make representations in person to the Community Affairs Legislation Committee at the hearing to be held in Darwin on 15 February 2010.

Unfortunately, constraints of time and resources have prevented LHAI from taking up this invitation, and likewise prevented LHAI from making a formal submission to the Inquiry by the closing date of 1 February 2001. The demands of organizational management and day to day service provision are fairly all consuming.

LHAI members however met with Australian Government representatives during the Tier 1 & 2 consultations on *Future Directions for the Northern Territory Emergency Response* at a 'mala leaders' meeting held at Gurrumurru Homeland on 28 July 2009.

The collective view put by the 'mala leaders' (ie. homeland clan leaders) was that:

"The Racial Discrimination Act should be fully reinstated.

The problems our people face can be addressed through programs and funding targeted on a needs basis alone, under the Closing the Gap policy.

We should not be subjected to 'special measures' that separate us out or impose things on us without agreement.

Our participation in this consultation about *Future Directions for the NTER*, 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."

The position of senior Yolngu representing our homelands is clear from the above.

For homeland residents the NTER has delivered little, if anything, other than an increased recognition that there has historically been a lack of investment by the Australian and Territory governments in health, education and training services.

Fundamental assumptions behind the NTER which gave rise to the original NTER legislation, and which are now being construed as 'special measures', continue to be unfounded, inappropriate and unhelpful in the Laynhapuy homeland context.

- **Income Management** as currently implemented continues to stigmatise people, and impose real hardship on families who have no easy access (logistically or financially) to transport, to banks, to stores or to Centrelink.

These problems will not be resolved by the proposed changes to the Income Management regime.

In general, the BasicsCard approach will continue to be cumbersome for clients, administratively very expensive, and punitive rather than incentive based. It is simply not a smart approach, even if it will no longer be discriminatory and provides for individual 'exemptions'.

Reforms to CDEP, to force people onto welfare benefits so they can be subject to Income Management, and the new Job Services Australia arrangements are inappropriate and ineffectual in terms of the stated employment objectives and are socially damaging as it causes confusion and undermines structures of authority, accountability and incentive that are already in place under CDEP and working with a greater level of success.

- The **Community Stores Licensing** provisions are relatively unproblematic, but are essentially irrelevant, as there are currently no sustainable store operations on the homelands and no 'food security'. Nutritional deficiencies remain the major contributor to poor health and child development on homelands, and LHAI is now in its fourth year of trying to secure Australian Government assistance to establish an appropriate stores business to make food and other essentials available in homelands.
- The **Five Year Lease** provisions and proposed amendments in the 73 prescribed communities are also irrelevant to homeland members, although there is general concern and confusion about the issue of Yolngu being required to alienate their land in return for basic services, and the loss of control over the affairs of their communities that comes with this alienation.
- The **Prohibited Materials** provisions and proposed amendments also appear to be largely irrelevant to homeland residents. Pornographic material in any format is not known to be a problem. Consequently LHAI has no in principle objection to the provisions. However, the computer auditing requirements impose technical/logistical challenges and very significant cost burden when applied to 'public access' and 'work only',

computers located in remote homelands, and are therefore difficult to fully comply with.

- The **Alcohol Restriction** provisions. LHAI supports the proposed amendments to allow for locally developed alcohol management plans. This is the situation that already applies in North East Arnhem Land, and the Laynhapuy Homelands supported a complete prohibition of alcohol in the homeland area – continuing the ‘ban’ that has been in place since the 1970’s. The original NTER provisions to restrict alcohol were an abject failure.
- The **Australian Crime Commission Powers** are not fully understood, but it is unclear why any special powers in this area are required in relation to Indigenous communities but not the mainstream Australian community where similar issues also exist.

It remains a point of enormous frustration for LHAI and our members, that such massive amounts of Australian Government resources continue to be tied up in trying to implement, and get right, NTER measures that from our experience have done little to improve the welfare or development prospects of our homelands.

The *Racial Discrimination Act* must be reinstated urgently. Whether any of the proposed ‘special measures’ are justified is highly questionable. It is unclear that they ‘benefit’ Aboriginal people in the sense intended in the *UN Convention on the Elimination of Racial Discrimination*, and they have not been negotiated/agreed with Aboriginal people. It is also unclear that the proposed ‘special measures’ are proportionate to the scale of the problems targeted, or will have the intended efficacy – where is the evidence to support them?

There are far more pressing issues for those of us on the ground, than tinkering with ‘special measures’ of dubious benefit. Some of these are:

- our homelands being unable access affordable nutritious food due to lack of stores,
- ongoing over-crowding and associated health problems because of the ‘ban’ on new housing for established homelands
- our members being pushed onto ‘welfare’ and the undermining of a functioning CDEP
- many homelands still having no reticulated power or power that is unaffordable,
- the slowness and uncertainty of receiving Government support for our successful secondary boarding facility
- insufficient access to literacy & numeracy training
- insufficient funding to maintain our 24 airstrips in good condition

- the fact that 130 of our 152 community houses rely on 'pit toilets, and the lack of any funding program to address this, and
- that core funding requirements for LHAI (finance management, corporate services, HR and governance) are not directly funded.

When we look around our homelands it is very hard to see positive outcomes from the NTER – or at least from those aspects driven by the bureaucracy. As for the Yirrkala Community where our Resource Centre is based, it is hard not to feel that things have in fact gone backwards under the combined onslaught of the NTER and Shire reforms.

The suspension of the *Racial Discrimination Act* was a mistake that must be made right as soon as possible.

Moreover, there is a need for the Australian Parliament and the Government of the day to continually reflect on whether they have adequately understood the nature of the problems and challenges faced in remote Indigenous communities, or the aspirations of the Indigenous residents, so that effort and resources are appropriately directed.

Yours sincerely

Ric Norton
General Manager
15 February 2010