

CHAPTER 3

COMMITTEE VIEW

3.1 At the outset, the committee expresses its deep concerns in relation to the abuse and neglect of Indigenous children described by the *Little Children are Sacred* report as well as many previous government and media reports. The committee is of the view that immediate and absolute priority must be given to addressing the issues that affect the welfare of Indigenous children in the Northern Territory. Indeed, the protection of these children from violence and abuse, and the establishment of conditions that will allow them to lead healthy and productive lives, in which they achieve their full potential, is of the utmost importance. More broadly, there is clearly a need for immediate action to address the disadvantage all Indigenous people confront.

3.2 The committee welcomes the policy changes contained in this suite of bills as a genuine and enduring commitment from the Australian Government to tackle critical issues in Indigenous communities in the Northern Territory. These issues include high unemployment, alcohol and drug dependency, poor health and education outcomes, inadequate housing and child abuse. In saying this, the committee acknowledges that many of the issues that the bills seek to address are complex and entrenched; however, this is no excuse for failure or neglect.

3.3 The committee commends the holistic approach taken by the Australian Government in its policy formulation in this challenging area. The legislation contains 'on the ground' practical solutions which the committee believes will go a long way to addressing some of the inherent problems in Indigenous communities. In this context, the committee notes the close cooperation that has taken place throughout the policy formulation process between all relevant Commonwealth agencies.

3.4 The committee is concerned about the conflicting evidence it received on the issue of the compulsory acquisition provisions in the bills and whether they consistently provide for just terms compensation. The committee queries why some provisions in the bills have directly transferred the terminology used in section 51(xxxi) of the Constitution, while others have used the phrase 'a reasonable amount of compensation'. The committee believes the government should provide further clarification in relation to this complex issue when the Senate resumes its consideration of the bills.

3.5 The committee is also concerned about evidence it received regarding the difficulty individuals may face in calculating the amount of alcoholic beverages which would equate to 1350 millilitres of pure alcohol. In particular, the committee considers that there is a danger individuals may be liable to criminal penalties because they do not understand what the law requires. The committee recommends that the government develop explanatory material to assist people to understand this aspect of

the offences created under the National Emergency Response Bill as a matter of high priority.

3.6 In a similar vein, the committee believes that there should be further clarification of what is meant by 'unsatisfactory school attendance' in relation to the income management provisions of the Welfare Payment Reform Bill so that welfare recipients have a clear understanding of the requirements the bill imposes upon them.

3.7 The committee received some evidence that suggested there was a need to expand alcohol and drug rehabilitation services in some Northern Territory centres. The committee considers that the government should closely examine the need for these services to ensure that the measures in the intervention package are consolidated through direct support to individuals who are overcoming drug and alcohol addictions.

3.8 The committee believes that it will be important to carefully monitor the measures in the National Emergency Response and Other Measures Bill dealing with the possession and supply of X18+ films to assess their effectiveness in preventing the use of these films in the sexual abuse or sexualisation of children and young people in the prescribed areas. Given the ready access to X18+ films under the Northern Territory's *Classification of Publications, Films and Computer Games Act*, which will continue to apply outside the prescribed areas, these measures may not be sufficient to achieve the objective.

3.9 Consideration may need to be given to extending the prohibition on the possession and sale of X18+ films throughout the Northern Territory,¹ or to cutting off the supply of such films at their source through an amendment to the *Customs (Prohibited Imports) Regulations 1956*, a prohibition on the carriage of X18+ films by a carrier service or even a prohibition on the production and sale of X18+ films in the Australian Capital Territory.²

3.10 The committee welcomes the recently announced government initiatives in relation to internet content filtering. The committee considers that these initiatives may help to address the issue raised by Laynhapuy Homelands Association Inc about the cost of installing filter software.

3.11 As the Minister has publicly acknowledged,³ the bills provide him with exceptionally broad powers. While the committee has some reservations about the breadth of those powers, it accepts that they are necessary in light of the urgency of the circumstances to be addressed. Moreover, the committee notes that several

1 The Australian Christian Lobby draws a parallel between the prohibition of X18+ films and the replacement of regular petrol with Opal fuel to combat petrol sniffing. In both cases limiting the measure to the affected areas is ineffective. See *Submission 2*.

2 See Festival of Light, *Submission 37*.

3 Australian Broadcasting Corporation, *Lateline*, 6 August 2007, transcript accessed at: <http://www.abc.net.au/lateline/content/2007/s1999216.htm> on 11 August 2007.

significant parts of the National Emergency Response Bill and the National Emergency Response and Other Measures Bill are subject to sunset provisions (that is, they will cease to have effect at the end of a period of five years after commencement).

3.12 The committee acknowledges that the bills represent a significant departure from existing policies. Clearly, implementation of this legislation in the Northern Territory will provide lessons for Indigenous communities in other areas. As a result, the committee believes that it is essential that the impact of the legislation is closely monitored, and subject to regular review and reporting. The committee is of the view that annual reporting should occur through the existing Overcoming Indigenous Disadvantage reporting framework which provides for cross-portfolio annual reports that are publicly available.⁴ In the committee's view, the outcomes of the intervention package should be measured against publicly stated key performance indicators and reported on in a dedicated section of the Overcoming Indigenous Disadvantage report.

3.13 The committee welcomes evidence from the Northern Territory Emergency Taskforce that a strategic communications plan is being developed in relation to the intervention.⁵ The committee is confident that the taskforce will also be developing an initial operational plan as well as preparing longer term plans. These documents should all be made publicly available and information regarding revisions to these plans should be provided in the Overcoming Indigenous Disadvantage report. The committee considers that the strategic communications plan and initial operational plan should be published within six months while the longer term planning documents should be made available within 12 months.

3.14 In making these recommendations, the committee's intent is that there should be transparency in relation to the specific objectives of the intervention package, how it is planned to deliver those objectives and how the government will measure the success of these initiatives.

3.15 In addition, the committee recommends that a review of the legislation should be conducted two years after its commencement, particularly to ascertain the impact of the measures on the welfare of Indigenous children in the Northern Territory. The committee does not consider that there needs to be a legislative requirement for such a review but does recommend that a report on the review be tabled in Parliament.

3.16 Finally, the committee encourages the Australian Government to work closely with the Northern Territory Government and to engage in dialogue with Indigenous communities in the Northern Territory to ensure that this initial emergency response

4 See further Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2005*, Productivity Commission, Canberra, 2005 at <http://www.pc.gov.au/gsp/reports/indigenous/keyindicators2005/keyindicators2005.pdf> (accessed 9 August 2007).

5 *Committee Hansard*, 10 August 2007.

leads to long-term outcomes. The committee recommends, as suggested by HREOC, that this dialogue should commence with a public information campaign designed to allay the fears of Indigenous communities in the Northern Territory and ensure Indigenous people are fully informed about how this legislative package will impact on them.

Recommendation 1

3.17 The committee recommends that the operation of the measures implemented by the bills be continuously monitored and publicly reported on annually through the Overcoming Indigenous Disadvantage reporting framework.

Recommendation 2

3.18 The committee recommends that the Northern Territory Emergency Taskforce make publicly available its strategic communications plan as well as other operational plans, within six months, and the long term plans being developed in relation to the intervention, within 12 months; and that information regarding significant revisions to these plans should be provided in the Overcoming Indigenous Disadvantage report.

Recommendation 3

3.19 The committee recommends that the operation of the measures implemented by the bills be the subject of a review two years after their commencement, particularly to ascertain the impact of the measures on the welfare of Indigenous children in the Northern Territory. A report on this review should be tabled in Parliament.

Recommendation 4

3.20 The committee recommends that a culturally appropriate public information campaign be conducted, as soon as possible, to allay any fears Indigenous communities in the Northern Territory may hold, and to ensure that Indigenous people understand how the measures in the bills will impact on them and what their new responsibilities are.

Recommendation 5

3.21 The committee recommends that the Australian government develop, as a matter of high priority, explanatory material to assist people to understand what is meant in practical terms by the phrases 'a quantity of alcohol greater than 1350 millilitres' and 'unsatisfactory school attendance'.

Recommendation 6

3.22 The committee recommends that the Australian Government should closely examine the need for additional drug and alcohol rehabilitation services in the Northern Territory and, if necessary, provide additional funding support to those services.

Recommendation 7

3.23 The committee recommends that the Senate pass the bills.

Senator Guy Barnett
Chair

