

THE NT INTERVENTION: THE NTER REPORT RECOMMENDATIONS STILL RAISE CONTROVERSY

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Following the release on 13 October 2008 of the Report of the independent Review of the Northern Territory Emergency Response (NTER), the federal Government will continue compulsory income management as a key measure because of its demonstrated benefits for women and children. The Report of the Northern Territory Emergency Response Review Board was commissioned to report one year after the commencement of the NT Intervention.

The Report found that the situation in remote NT communities and town camps remained sufficiently acute to be described as a national emergency and the Government would continue and strengthen the NTER to protect women and children, reduce alcohol-fuelled violence, promote personal responsibility and rebuild community norms in Northern Territory (NT) Indigenous communities.

The Government accepted the three overarching recommendations of the Review Report and will act on them in progressing to the next phase of the NTER. These were:

1. The Australian and Northern Territory Governments recognise as a matter of urgent national significance the continuing need to address the unacceptably high level of disadvantage and social dislocation experienced by remote communities and town camps in the Northern Territory.
2. Governments reset their relationship with indigenous people based on genuine consultation, engagement and partnership.
3. Government actions respect Australia's human rights obligations and conform with the *Racial Discrimination Act 1975*(RDA).

In relation to this latter point, the Government response confirmed that it intended to comply with the RDA in its long-term outcomes, but that it was not prepared to disrupt current beneficial measures or place them at risk of legal challenge in the short term. In particular, it wanted to maintain the core elements of the NTER such as compulsory income management, the five-year leases, and alcohol and pornography controls and would ensure that they were either more clearly special measures or non-discriminatory and the revised measures would conform with the RDA.

The Law Council of Australia welcomed the Government's commitment to reintroduction of the RDA. Law Council President, Ross Ray QC, said the Law Council had condemned the suspension of the *Racial Discrimination Act* from the outset of the intervention and had consistently called for all protections against racial discrimination laws to be reinstated. The Law Council had been a strong critic of the suspension of the permit system, compulsory income management, prohibition against consideration of the cultural background of indigenous offenders in sentencing and compulsory acquisition of Aboriginal land.

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Law Council President Ross Ray QC said, 'The Review Board has identified several critical human rights concerns which must be addressed before the NT intervention continues. The *Racial Discrimination Act* must be reinstated in respect of all legislation governing the intervention, and it must be made clear that all actions carried out under the intervention are subject to racial discrimination laws.'

The Law Council President took a different view of the success of the Government's intervention saying, 'The report confirms the discriminatory and damaging effect of compulsory income management and the importance of fully reinstating the Aboriginal lands permit system. In addition, the report rightly calls for a guarantee of natural justice for Aboriginal people affected by decisions and measures implemented under the intervention and a commitment to genuine consultation and partnership with Aboriginal people. The Law Council welcomes this timely report and calls upon all sides of Parliament to commit to implementing its recommendations without delay.'

The Government has indicated that the current stabilisation phase of the NTER will continue for the next twelve months before transitioning to a long-term, development phase. The development phase will maintain and strengthen core NTER measures including compulsory income management, five year leases, alcohol and pornography controls, while placing a greater emphasis on community development and community engagement.

Legislative amendments to bring existing NTER legislation within the scope of the RDA will be introduced in the Spring Parliamentary session next year and will also legislate in the first half of 2009 to ensure people subject to the NT income management regime have access to the full range of appeal mechanisms afforded to other Australians, including the Social Security Appeals Tribunal and the Administrative Appeals Tribunal.

Other immediate steps include:

- The Government will immediately ask the NT Valuer-General to determine a reasonable rent for all existing five-year leases and examine the scope to reduce the current boundaries of five-year leases.
- Negotiations with traditional owners for long term leases will continue. This is to ensure that beneficial activities already under way, in particular, the Australian Government's \$547 million investment in new housing, housing upgrades and reformed tenancy arrangements, can be progressed.

The Government will respond in full to the Review Board's recommendations, including future funding arrangements, over the coming months.

The Government response says that NTER has been making important progress:

- Families in remote communities report feeling safer because of the increased police presence, the reduction in alcohol consumption and additional night patrols and safe houses. There are now 51 additional police serving in communities that did not previously have a permanent police presence.
- Women say that income management means they can buy essentials for their children such as food and clothes. Shopping habits in licensed stores have changed – more is being spent on fresh food, sales of cigarettes have halved and the incidence of 'humbugging' has fallen.

- The 'BasicsCard', which has recently been introduced, is making it easier for customers to shop with their income managed funds. More than 4000 BasicsCards have been issued to date.
- School nutrition programs are providing breakfast and lunch for children in 68 communities and associated outstations and ten town camp regions.
- In total, 12,097 Child Health Checks including Medical Benefits Scheme (MBS) checks, representing 70% of eligible children have been conducted.
- Audiology follow-up services have been provided to 1,309 children. Non-surgical dental services have been provided to 1,750 children; 109 children have undergone ear, nose and throat surgery and 178 children have undergone dental surgery.
- Additional funding has been allocated in 2008-09 and the following year to improve health services in remote communities in the NT.
- 200 additional teachers are being recruited. The first of these teachers are now in place.