

defendants (usually male). The Alice Springs Domestic Violence Service lawyer has attended the Tennant Creek and Yulara court circuits for the past 18 months and has provided valuable assistance to a number of women there, but no lawyers currently attend bush courts to assist women who are seeking restraining orders. NT police are empowered to seek telephone interim orders, but this rarely occurs in remote communities where there is a police presence.

This is not to say that restraining orders are the answer for all Aboriginal women in remote locations. Enormous difficulties exist for women trying to separate themselves from marital violence in a bush community of 300-400 people. The communities are geographically isolated, families are inter-related, the husband may have a violent reputation generally and thus others in the community are fearful of him. There are additional problems if the woman is from different country and living in her husband's country — his violence towards her is often ignored by his family and she has none of her own kin to call on for assistance.

Assuming that women experiencing marital violence can get a restraining order issued by a court, it still may not afford them much protection. The success or otherwise of such orders greatly depends on the presence of police in the immediate area to respond to requests for help, how helpful or otherwise other agencies and their personnel in the community might be (such as health clinics, schools, community councils, stores), and how supportive the families of the women concerned are.

Aboriginal women in bush communities are talking about domestic violence as an important issue which needs to be dealt with so that they, their daughters, sisters, granddaughters and grandmothers can live in safety. It is a very significant problem across the language groups and geographical locations in Central Australia. There needs to be a recognition of it as such at all levels by legal, social, and political bodies. For example, organisations like CAALAS should not be seen as primarily a service for Aboriginal men charged with criminal offences. Bush community councils and ATSIC Regional Councils must have more elected women members so that their concerns are reflected in economic and political strategies and plans. Aboriginal women are important and their lives should be valued.

Nanette Rogers has worked as a solicitor with Aboriginal women in Central Australia since 1990.

References

1. Bolger, Audrey, 'Aboriginal Women and Violence', North Australia Research Unit, Australian National University, Darwin, 1991, p.11.
2. 'Scutt found that only a little over half her sample had sought police assistance while Radford put the figure as low as 25% [citations omitted]'. Bolger, above, p.11.
3. Bolger, above, p.12.
4. Census Characteristics of the NT, 1991 Census, Australian Bureau of Statistics p.11.
5. Personal communication 9 August 1996 with Joanne Fleer, solicitor at Alice Springs DVS
6. I have been made aware of magistrates in courts in WA particularly on the Ngaanyatjarra lands, refusing to make orders in similar terms, apparently saying that women must have a 'no contact' order or nothing at all. Attitudes like these are not responsive to the needs of Aboriginal women in remote locations grappling with domestic violence.

ALCOHOL ABUSE

Curtin Springs Roadhouse

RUTH MORLEY reports how one Aboriginal group is dealing with the problem of excessive drinking by members of its community.

Attempts to address excessive alcohol consumption by the Aboriginal population of the Northern Territory have intensified over the last three years. Territory towns including Tennant Creek, Katherine, Jabiru, Curtin Springs, Alice Springs, and Halls Creek in the Kimberley (WA) have all sought, and some obtained, restrictions on alcohol sales.

Initiatives for the restrictions have predominantly come from Aboriginal communities and have involved extensive negotiations with publicans, town councils, and citizens. The restrictions usually include no trading on pension days, and limiting take away sales.

In all cases, agreement has been reached by negotiation facilitated by the Northern Territory Liquor Commission at the demand of Aboriginal organisations. However, with Curtin Springs, negotiation was not possible until the Human Rights and Equal Opportunity Commission was brought in and a Coronial Inquest begun. Before this, the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara (NPY) Women's Council had fought for 15 years to restrict sales of alcohol at Curtin Springs. Contrary to the publican's claim in the *Australian* recently that he had attempted to sit down and talk the matter over with Anangu (Pitjantjatjara word for themselves), it was not until legal action was threatened and taken that he was prepared to listen. Once the formalities of the Application for a Special Measures Certificate were done, the legal representative of the NPY Women's Council left the scene willingly and voluntarily. Anangu representatives and the co-ordinator of the Council continued negotiations.

The Curtin Springs negotiations are unique as they were conducted as a result of an application for a Special Measures Certificate under the *Racial Discrimination Act 1975* (Cth). The following is an account of the application.

A Special Measures Certificate is available under s.8(1) of the *Racial Discrimination Act*. Part 2 of the Act states exceptions to the rule that racial discrimination is prohibited. Section 8(1) says:

This part does not apply to, or in relation to the application of, special measures to which paragraph 4 of article 1 of the Convention applies except measures in relation to which subsection 10(1) applies by virtue of subsection 10(3).

Article 1, Part 4 of the International Convention On the Elimination of all Forms of Racial Discrimination (ICEFRD) says:

Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided however, that such measures do not as a consequence lead to the maintenance of

separate rights for different racial groups and that they shall not be continued after the objectives for which they have been taken have been achieved.

The applicants were required to prove each of the following elements provided in the ICEFRD:

- the special measure would confer a benefit on some or all members of a class
- whose membership was based on race, colour, descent ...
- for the sole purpose of securing adequate advancement of the beneficiaries in order that they may enjoy and exercise equally with others human rights and fundamental freedoms
- in circumstances where the protection given to the beneficiaries by the special measure is necessary in order that they may enjoy and exercise equally with others human rights and fundamental freedoms.

In July 1996, an application was lodged with the Human Rights and Equal Opportunity Commission (HREOC) under the *Racial Discrimination Act* for a Special Measures Certificate by the NPY Women's Council on behalf of Anangu from the Ngaanyatjarra, Pitjantjatjara, and Yankunytjatjara lands in the cross-border region of Central Australia. The application called for restrictions on the sale of liquor to Anangu from Curtin Springs Roadhouse (CSR) in the Northern Territory.

The applicants were required to prove that they had the support of every NPY member community. This involved obtaining letters of support from over 30 Anangu communities and representative bodies. Each letter stressed the deleterious effects of alcohol consumption on the communities and families of drinkers, and the advantages in restricting sales of alcohol. The letters were annexed to the NPY submission which proved each of the above elements; presented a summary of the variety of restrictions on the sale of alcohol to Anangu that already exist throughout Central Australia; and gave a history of NPY's struggle over 15 years to persuade CSR to restrict alcohol sales to Anangu.

Having read the submissions from both CSR and NPY, the Race Discrimination Commissioner, Zina Antonios, came to Alice Springs to hold a mediation session between the parties in early December 1996. Initially the Commissioner held private sessions with each of the parties. No lawyers were involved, and each party was required to make their own representations. After the first meeting with several representatives of NPY, the Commissioner felt their numbers should be reduced during the combined mediation session, fearing the respondent would be intimidated. However, on hearing an application by NPY that it would be culturally more appropriate for Anangu to meet as a group, and that the concern over CSR had always been expressed in a group way, the Commissioner permitted all Anangu who had travelled in from bush communities to attend the combined mediation session.

The agreement arose out of the combined mediation session.

On 17 December 1996 the Certificate was granted and an agreement reached between the parties, the terms of which are as follows:

- (1) From *January 1 1997 to June 30 1997* there shall be:
 - (a) no sales of 'take-away' liquor to Aboriginal people (irrespective of their place of residence); and

- (b) the sales of liquor to Aboriginal people (irrespective of their place of residence) for consumption on the premises of Curtin Springs Roadhouse only between 1.00 pm and 4.00 pm;

- (2) From *July 1 1997 to December 31 1997* there shall be:

- (a) no sale of liquor to Aboriginal people (irrespective of their place of residence) for consumption on the premises of Curtin Springs Roadhouse.

- (b) sales of one '6-pack' of beer (comprising 6 x 375ml cans of beer) per Aboriginal person (irrespective of their place of residence) per day

- (c) sales of take-away beer shall be only between the hours of 1.00 pm and 4.00 pm.

- (d) the licensee shall require an Aboriginal person (irrespective of their place of residence) who purchases take-away liquor to sign a register (known as the 6-pack register) maintained by the licensee.

- (3) The reference to liquor in this agreement refers only to beer and does not include wine or spirits in any form;

- (4) At the discretion of the licensee and at the request of the communities there may be further restrictions imposed by the licensee for ceremonial occasions or cultural reasons.

The Northern Territory Liquor Commission (NTLC) observed proceedings as it has a number of obligations under the *Northern Territory Liquor Act 1990* which include the control and conduct of liquor licenses. Subsequently, the NTLC has included the agreement in CSR's licence to sell liquor.

The original application requested that:

... CSR be not permitted to sell any takeaway alcohol to Anangu ... from the member communities and homelands of the NPY Women's Council and Pitjantjatjara Council region in South Australia, Western Australia, and the Northern Territory and will only be permitted to sell four cans of 375 ml beer per day to Anangu for drinking on the premises.

Most of the terms of the agreement are clear. Point (4) allows the applicants to apply for further restrictions on alcohol sales where an important football carnival or funeral or other cultural business is was occurring. Often excessive drinking disrupts these occasions.

The Application for the Special Measures Certificate coincided with a Coronial Inquest by the Northern Territory Coroner, Mr Warren Donald, SM, into the deaths of five people in the vicinity of CSR over a 13-month period. The Inquest was called in August 1996 as a result of the Coroner identifying a pattern of deaths associated with drivers of vehicles and passengers drinking at CSR immediately before their deaths. The five deaths occurred between November 1994 and December 1995. Pitjantjatjara Council Legal Department was granted leave to appear on behalf of the families of the deceased. Two further deaths believed to have been caused by alcohol consumption at CSR occurred in 1996. Other motor vehicle accidents caused by drinking at CSR have been reported to Pitjantjatjara Council Legal Department as well. The Inquest has finished and the Council is awaiting the Coroner's decision. The Special Measures Certificate and the Inquest are separate matters, but it is useful to mention the Inquest here to illustrate the seriousness of the problem of alcohol consumption at CSR.

The Special Measures Certificate and accompanying agreement has been in operation since 1 January 1997 and it is too early to really know what effect it will have. From anecdotal evidence it seems that there is less drinking at Curtin Springs Roadhouse by Anangu.

Ruth Morley is a lawyer with Pitjantjatjara Legal Service.