

## **A Brief Summary of the Document, 'Understanding the Amendments to the NT Emergency Response Legislation'**

(The full document is available from R4WS)

There are over fourteen pieces of legislation relating to the NT Emergency Response, otherwise known as 'The NT Intervention'. Without referring to the relevant legislation (see the full document for details) this summary highlights the provisions of the major Acts and Bills.

### **1. The Old Regime**

The 2007 intervention under the Howard Government was in response to the NT Government's release of a report, *Little Children are Sacred*, prepared by Rex Wilde QC and Indigenous health expert Pat Anderson. The report, based largely on anecdotal evidence, identified areas of serious child sexual abuse as well as other deficiencies including in policing, health and education. The report's 97 recommendations called for widespread consultation with the 73 prescribed communities in seeking to redress the problems. The Howard Government chose to ignore this advice.

Under the 2007 legislation, the following was enacted,

- imposition of alcohol restrictions (many communities were already dry)
- restrictions on the use of publicly-funded computers (pornography)
- compulsory acquisition of Aboriginal and other land tenures. (5-year leases with no guaranteed compensation or rental payments)
- suspension of the 1975 Racial Discrimination Act (RDA)
- income management (quarantining of up to 50% of a person's welfare payment, with the 'Basiccard' such that the quarantined money could only be spent on food and clothing at specified stores in major towns)
- scrapping of the 'permit system' (no authorization required to enter Aboriginal land)
- scrapping of Community Development Employment Scheme (CDEP – work for the dole)

Initially, compulsory health checks were to be carried out on all children in the prescribed communities, but following intense opposition from health professionals and the Indigenous Doctor's Association, the compulsory aspect was dropped. While some, (mostly women) welcomed the quarantining (because it helped stop 'humbugging' - relatives demanding money for grog), most resented the suspension of the RDA and the fact that quarantining was imposed on everyone in the 73 communities regardless of social behavior, ie where all the children attended school and where there was no child abuse or substance abuse. Hardships imposed by income management included the fact that those living considerable distances from major towns, (and a lack of public transport) eg Katherine (where Basiccards could only be used) had to pool their cash and travel by taxi.

A review of the intervention called for by the Howard Government and undertaken by experts Peter Yu and Marcia Ella Duncan, recommended the retention of the intervention (Indigenous people in the NT had been calling out for years for more police, more health and educational facilities) but that income management should not be compulsory. Both the Howard and Rudd

Governments chose to ignore this advice, Kevin Rudd stating that the legislation would be reviewed in two years time.

## **2. The New Regime**

Intense criticism of the original regime including from the United Nations, caused the Rudd Government to do a re-think. A new Bill, ***Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009*** is expected to be debated in the Senate in May 2010 when parliament resumes. This together with other amended legislation,

- restores the Racial Discrimination Act (RDA) (see caveat below)
- removes the original income management regime (see caveat below)
- establishes a different income management regime
- partially restores CDEP (applies to those in remote communities only)
- partially restores the Permit System (but journalists & government contractors will not require permits)
- by July 2011, replaces a 'Declared Relevant NT Area' (the 73 Communities) with a 'Declared Income Management Area' (anywhere in Australia)
- theoretically by July 2011, potentially imposes income management on any person in Australia who is on welfare.

Despite what seems at first glance, a positive step, the legislation is not retrospective. This means that the RDA will still remain suspended until July 2011 and those on income management will remain on it for the same period. This assumes that the Bill passes as it stands in May 2010. (The Coalition has already indicated that it considers that the Bill 'weakens' the existing legislation and, therefore, may oppose it or try to amend it))

A new income management arrangement will apply to,

- long-term welfare recipients (persons at least 25 yrs-old on welfare for 52 weeks out of 104 weeks)
- disengaged youth (persons 15-25 yrs-old and recipients of welfare for 13 out of 26 weeks)
- any person whom the Departmental Secretary considers a 'Vulnerable Welfare Payment Recipient'

When the new regime kicks in, a person who no longer qualifies for income management (for example, if they have a job) the Secretary will determine that they are exempt or the person will have to apply for exemption.

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