C. Smyrnis

1 February 2012

Committee Secretary
Senate Standing Committee
on Community Affairs
Parliament House
Canberra, ACT 2600

Dear Honorable Members,

Re: - Stronger Futures in the Northern Territory Bill 2011
- Stronger Futures in the Northern Territory (Consequential and Transitional Provision) Bill 2011
- Social Security Legislation Amendment Bill 2011

I am writing this submission in response to the continuation of unjust and racially discriminatory laws that are being proposed under the Stronger Futures in the Northern Territory Bill 2011. The Northern Territory Intervention has already resurrected the painful days of colonialism, paternalism and assimilation for Indigenous communities in NT. Once again, the Stronger Futures Bill aims to treat Indigenous people as incapable of managing their economic affairs, undermines Indigenous peoples' ability to exercise genuine land rights and attempts to exacerbate Indigenous criminality via petty, discriminatory alcohol offences.

Income Management

Discriminatory nature

Firstly, the Social Security Legislation Amendment Bill 2011 measures relating to income management and school attendance aim to further marginalize the most vulnerable members of the community. The continuation of income quarantining for NT Indigenous communities breaches the right to social security, the right to equal treatment before the law and the right to access public places and services. Regardless of their capacity to meet personal and familial responsibilities, Indigenous people have become subjected to mandatory and non-discretionary income quarantining based on their residence in prescribed Indigenous communities. Without necessitating any investigation of unfit parenting or child neglect issues, the arbitrary regime of income management effectively punishes those already exercising financial responsibility. With this in mind, it is evident that the same colonial rhetoric of white supremacy which branded Indigenous people as in need for 'protection and control by white society' has resurfaced behind the rationales of welfare quarantining. The transfer of power of Community Development Employment Projects to the Commonwealth Government is representative of the same colonial racial discourses which upheld that Indigenous people are not capable of

managing their financial affairs and are in need of management by state administrators. The utility of the 'BasicsCard' effectively acts a contemporary ration system which controls what Indigenous people can purchase and how much they can purchase. Characteristic of the assimilation era of the 1930's, the contemporary Government is using social security legislative schemes as incentives to encourage Indigenous people to dispense their 'nomadic lifestyles' by providing benefits only to those deemed socially responsible.

Lack of evidence

As the Social Security Legislation Amendment Bill 2011 aims to nationalize these income quarantining measures, I find it deeply concerning considering the lack of well-researched clinical trials. There are justified concerns over the scientific accuracy and legitimacy over the Australian studies that have been conducted in 'support' of income management. According to the Evaluation of Income Management in the Northern Territory of 2009, the Australian Institute of Health and Welfare (AIHW) recognized that there were numerous limitations about the data and the conclusions that could be drawn, as well as the data collection methodology used which was developed by FaHCSIA.

1. "*The research studies used in the income management evaluation (point-in-time descriptive surveys and qualitative research) would all sit towards the bottom of an evidence hierarchy. A major problem for the evaluation was the lack of a comparison group, or baseline data, to measure what would have happened in the absence of income management"* (Evaluation of Income management in the Northern Territory Report, vi).

- This means that the 2009 FaHCSIA client survey is of the lowest scientific standards. Without natural experiments and before and after studies, there is no evidence to suggest that income management will be beneficial in securing finances on priority needs. As there was no comparison group, it is impossible to determine what changes had been due to income management, or to quantify the extent of any change that had occurred.

2. *"In addition, there were some data quality issues with the research conducted for the evaluation. The 2009 client interviews, for example, included only a relatively small number of clients (76) from four locations, who were not randomly selected for interview"* (Evaluation of income management in the Northern Territory Report, vi).

-This essentially means that the four areas selected for the interviews were not representative of all prescribed areas in the Northern Territory. Participants were hand picked by interviewers which means risk of error and biases have impacted the results to a certain extent. Stronger evidence would have been provided by a larger client survey where participants were randomly selected for interview to ensure they are representative of all community members.

3. *"However, the overall evidence about the effectiveness of income management was not strong……. When asked a general question about whether their purchasing behaviour had changed since the introduction of income management, under half (43 per cent) of the 76 interview participants said it had, while just over half (57 per cent) said there had been no change" (*Evaluation of Income management in the Northern Territory Report, vi)

- Considering that this study showed no overall trend, there is no scientific evidence to suggest that income management improves financial organization and deters socially irresponsible behaviors. Therefore, the national roll out of these income management measures has completely no scientific standing.

Truancy and School Attendance Measures

As an Undergraduate Criminology Student, I find it appalling that the Commonwealth Government is attempting to 'solve' the epidemic of Indigenous criminality by simply threatening welfare payments. Indigenous people are already arrested, charged and incarcerated at rates far in excess of their number in the population. As of June 2009, about four in five prisoners in the NT were Indigenous (82%) which constitutes the highest proportion of Indigenous prisoners of any state or territory. Indigenous offending is a complex social problem with issues relating to poverty, unemployment, discrimination and lack of opportunity. Punishing parents by suspending welfare income payments will only exacerbate the social inequalities that are already experienced by many Indigenous families. In relation to the school attendance measures, it is important for the Commonwealth Government to recognize why Indigenous young people may be less inclined to remain actively engaged with their schooling. The bans of bilingual education are the greatest measure to deter young Indigenous people from having positive educational experiences.

Stronger Futures in the Northern Territory Bill 2011- Land Rights

Before discussing the land reform policies of the Stronger Futures Bill, it is important to recognize the harms that have been caused by the compulsory five-year lease regime and the removal of native title negotiation rights during the NT Intervention. Prior to the Intervention, Indigenous land and community living areas in the NT were held or owned solely for the benefit of traditional Indigenous residents or owners. The Aboriginal Land Rights (Northern Territory) Act 1976 (Cth) was enacted to restore Aboriginal possession, control and ownership of land. Providing communities the opportunity to attain legal title of land ownerships, the provisions of this legislation enabled Indigenous people for the first time since colonialism to have a measure of control and management over traditional lands. Under the NT Intervention however, the Federal Government sought to undermine these protections by compulsorily acquiring five-year leases over townships on Indigenous land held by Aboriginal land trusts and councils.

These five-year leases did not require the government to consult nor gain the consent of the relevant Aboriginal land trust, land council or association. In effect, the role of the landlord became assumed by the Commonwealth Government as they possessed the right to use lease lands for any purposes or activities that were considered to meet the objectives of the NT Intervention. To make matters worse, communities were pressured to sign 40 to 90 year land leases in order to be assured of housing and welfare funding. Communities that could not come to agreement over the terms of the lease and resist governmental interference, such as those represented by the Tangentyere Council, were at risk of having their land being compulsorily acquired by the Commonwealth Government on a permanent basis.

Furthermore, the suspension of the future act provisions of the Native Title Act (Clth) 1993 was also accompanied by the NT Intervention. Advocated by the case of Mabo vs Queensland (1992), the Native Title Act recognizes the need to acknowledge the rights and interests of Indigenous people according to traditional Indigenous laws and customs. In removing traditional owners' rights to negotiate under the Native Title Act (Clth) 1993, the NT Intervention undermined the ability for Indigenous communities to exercise authority and participate in the decision making process about activities proposed to be undertaken on claimed lands. The suspension of these rights effectively meant that native title claimants no longer had the ability to protect sacred sites, fulfill cultural obligations and reject environmentally damaging resource-extraction projects. Without having to deal with the complexities of negotiation, proponents of development, such as mining and gas companies, have been enabled to undertake projects upon claimed lands without having to taken into consideration the preservation of Indigenous interests and customs.

Due to the NT Intervention's detrimental impact upon Indigenous land rights and interests, I had hoped that better policies relating to land rights would take place under the Stronger Futures Bill. Although the compulsory five year leases will be stopped by August 2012, the Stronger Future Bill continues to undermine and further antagonize Indigenous peoples' relationship with their lands. According to Part Two of the Stronger Futures Bill, "Land Reform", it states that the "measures are aimed at facilitating the granting of rights and interests, and promoting economic development, in those camps and areas". However in the detail it states that the regulations may modify any law of the Northern Territory relating to: the use of land; or dealings in land; or planning; or infrastructure; or any matter prescribed by the regulations to the extent that the law applies to a town camp and the same conditions apply to community living areas. This gives the Federal Government more power over to the Northern Territory government; it doesn't empower Aboriginal people in the slightest.

Alcohol Restrictions

The NT Intervention and the Stronger Futures measures continue to provide blanket, punitive laws across entire Indigenous communities. These restrictions are not only based upon racist assumptions about Indigenous alcoholism but have also served to further stigmatize Indigenous people as 'criminals and alcoholics'. According to the labeling

theory, the stigmatization of being labeled as a deviant unfolds a self-fulfilling prophecy whereby the offender internalizes a deviant identity. By placing large, intimidating signs saying 'No Alcohol Zone' across Indigenous communities, Indigenous people have been universally stigmatized as alcoholic-prone individuals. Such treatment of Indigenous people is only likely to minimize any hope of rehabilitation for those who do have serious alcohol problems. In relation to alcoholic offences, the maximum penalty for possession of alcohol over 1,350ml is 680 penalty units or imprisonment for 18 months. Such excessive punishments, which are of no crime in any other part of Australia, indicate that the Commonwealth Government is not concerned about reducing Indigenous criminality. Considering the massive overrepresentation of Indigenous people in the NT criminal justice system, the Commonwealth Government should be taken every measure to prevent rather than incite Indigenous criminality. The rigidity of prison life, the loss of social contact and the impending stigmatization are the precise reasons why 70% of prisoners are incarcerated within a 5 year period. Prison sentences for alcoholic possession are simply inviting less serious Indigenous offenders towards a life long path of criminality.

Pornography Restrictions

Considering the humiliating and derogatory measures taken under the NT Intervention to curb 'child pornography', I believe the Commonwealth Government should remove the pornography restrictions under the Stronger Futures Bill. In July 2009, the Australian Crime Commission acknowledged that it had found no evidence of pedophile rings in the NT. Therefore, there is no reason for why these restrictions are continuing under the new legislations.

C.Smyrnis