**Submission to the Australian Law Reform Commission Inquiry into Elder Abuse: IP 47**

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I have worked with indigenous people in the Western Desert Region for 14 years. I currently live in a remote indigenous community in the Little Sandy Desert and work with native title holders. My experience provides me with some insight and understanding of the normative systems within the Western Desert[[1]](#footnote-1) as well as the issues facing ‘elders’ in contemporary Western Desert communities.

This submission responds to Question 3 as it relates to ‘elder abuse’ in remote indigenous communities but may also cross over Questions 1, 2 and 4. Aboriginal people living in remote indigenous communities are generally the most disadvantaged section of Australian society[[2]](#footnote-2) and are vulnerable to the effects of continually changing government policy and legislative intervention.[[3]](#footnote-3) Older indigenous community members are particularly vulnerable to structural disadvantage perpetuated by governments ever grappling with the functionality and sustainability of remote communities.[[4]](#footnote-4) This submission cannot address the complexity of concepts and specific issues faced but will hopefully articulate some of the broader issues that need to be considered in relation to ‘elder abuse’ in remote indigenous communities.[[5]](#footnote-5)

The general conceptualization of elder abuse[[6]](#footnote-6), and the individualized risk factors[[7]](#footnote-7) don’t sufficiently explain the broader cultural and structural factors at play in remote indigenous communities.[[8]](#footnote-8) These factors are not limited to individualized or familial definitional issues but are also a consequence of the collision between the normative systems of indigenous societies and government bureaucracy that is ‘chaotic and inconsistent’[[9]](#footnote-9) in the way it deals with indigenous affairs.

In remote communities where poverty is the norm and access to meaningful employment is limited[[10]](#footnote-10), pension aged people are often the only ‘reliable’ source of income leaving them indirectly vulnerable to the increasingly punitive effects of government programming around such areas as work for the dole (currently called CDP) and income management programs.

CDP could provide a framework for meaningful engagement in employment and social development that is reflective of broader community aspirations.[[11]](#footnote-11) Instead participants are ‘clients’ and the program is generally administered with a compliance focus built around menial and degrading tasks. Service providers and government agencies focused on contractual continuation can ignore authoritarian community administrators[[12]](#footnote-12) who direct and control these ‘clients’ by threatening ‘cut off’ if they don’t adhere to often unreasonable and self-interested demands. Being ‘clients’ at the whim of administrators and arbitrary ‘cut off’ puts direct pressure on older family members who receive regular fortnightly pension payments, or other incomes, that aren’t dependent on the administration of CDP.

Income management programs compound this problem. If parents or guardians are ‘cut-off’ social security due to non-attendance of children at school the burden of providing for households is intensified for older community members. The complexities of why children don’t attend school can’t be addressed here, however, community administrators and government departments play a large role in schools being an unattractive and dysfunctional prospect for remote children.

The consequences of ‘cut-offs’ fall squarely on older community members to whom the burden for providing resources to an extended household falls. A pension payment is quickly exhausted in the face of extended family requirements. When households cannot afford power cards and food, ‘elders’ are the most vulnerable to cold and poor nutrition.

It is true to say that cultural obligations that stem from Western Desert normative systems play a part in older community member’s vulnerabilities.[[13]](#footnote-13) Cultural dynamics though are also an integral part of the solution as traditional normative systems set clear patterns of behavior, responsibility and societal norms, including reverence and respect of ‘elders’ who have high status both at ‘law’ and in general social function.[[14]](#footnote-14) If these systems can be harnessed, infused and reinforced within the administrative and service elements of community life they can be a powerful solution to the general lack of agency and empowerment of older indigenous community members. Culturally relevant ways of maintaining the general well-being of older indigenous community members also needs to be factored in.[[15]](#footnote-15) The core of cultural integrity in a community is supporting ongoing cultural practice and connection with country where the core value of older indigenous community members is reinforced and the normative dynamic and authority they embody sustains general community life.

The biggest difficulty for governments looking at yet more policy and legislative reform related to remote indigenous communities is understanding what it means to incorporate traditional normative systems into western paradigms of community and service administration. Governments and researchers understand at a broad level that local engagement and consultation is imperative[[16]](#footnote-16) but do not understand beyond this how to drive such engagement through traditional decision making structures nor how to envelop these decision making processes to maximize the effectiveness of services in remote communities. In coming to terms with this, governments will need to come to terms with the intrinsic value that lies in indigenous law and culture.

1. There are a number of publications that variously discuss Western Desert normative systems, including Robert Tonkinson, *The Jigalong Mob: Aboriginal Victors of the Desert Crusade* (Cambridge Publishing Company Inc, 1974); Fred R Myers, *Pintubi Country, Pintubi Self: Sentiment, Place and Politics among Western Desert Aborigines* (Australian Institute of Aboriginal Studies, Canberra and Smithsonian Institute Press Washington, 1986); R M Berndt ‘Traditional morality as expressed through the medium of an Australian Aboriginal religion’ in R M Berndt (ed) *Australian Aboriginal Anthropology* (University of Western Australia Press, 1970); Scott Cane, *Pila Nguru*: *The Spinifex People* (Fremantle Arts Centre Press, 2002) [↑](#footnote-ref-1)
2. Department of Indigenous Affairs, Submission to the Senate Select Committee, *Inquiry into Regional and Remote Indigenous Communities* (May 2009); ‘Mistreatment of Older People in Aboriginal Communities Project’ (An Investigation into Elder Abuse in Aboriginal Communities, Office of the Public Advocate, 2005); Steering Committee for the Review of Government Service Provision, ‘Overcoming Indigenous Disadvantage: Key Indicators 2014’ Productivity Commission, Canberra [↑](#footnote-ref-2)
3. Kirsten Gray et al, ‘Social Justice and Native Title Report 2015’, Australian Human Rights Commission, 2015, Chapter 1 [↑](#footnote-ref-3)
4. That governments are perpetually grappling with this is reflected in Department of Indigenous Affairs, Submission to the Senate Select Committee, *Inquiry into Regional and Remote Indigenous Communities* (May 2009); Regional Services Reform Unit, Department of Regional Development, *Resilient Families Strong Communities: A roadmap for regional and remote Aboriginal communities* (July 2016) [↑](#footnote-ref-4)
5. For a general elaboration around the complex of issues generated by constant changing government policies and programs in remote communities see Mark Moran, *Serious Whitefella Stuff: When solutions become the problem in indigenous affairs* (Melbourne University Press, 2016) [↑](#footnote-ref-5)
6. Professor Mike Clare et al, ‘Examination of the Extent of Elder Abuse in Western Australia’ (A Qualitative and Quantitative Investigation of existing agency policy, service responses and recorded data, *University of Western* Australia, 2011) 3; Marianne James, ‘Abuse and Neglect of Older People’ Australian Institute of Families, Family Matters No. 37, https://aifs.gov.au/publications/family-matters/issue-37/abuse-and-neglect-older-people [↑](#footnote-ref-6)
7. Standing Committee on Legal and Constitutional Affairs, House of Representatives, *Older People and the Law* (2007) 17 – 21; Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws*, Final Report No 124 (2014) and Professor Mike Clare et al, ‘Examination of the Extent of Elder Abuse in Western Australia’ (A Qualitative and Quantitative Investigation of existing agency policy, service responses and recorded data, *University of Western* Australia, 2011). Some of these assessments and risk factors may be generically relevant but they should always be viewed in remote desert communities through the prism of Western Desert cultural norms [↑](#footnote-ref-7)
8. As articulated in ‘Mistreatment of Older People in Aboriginal Communities Project’ (An Investigation into Elder Abuse in Aboriginal Communities, Office of the Public Advocate, 2005) 12 - 14 [↑](#footnote-ref-8)
9. Kirsten Gray et al ‘Social Justice and Native Title Report 2015’, Australian Human Rights Commission, 2015, 38 [↑](#footnote-ref-9)
10. ‘Mistreatment of Older People in Aboriginal Communities Project’ (An Investigation into Elder Abuse in Aboriginal Communities, Office of the Public Advocate, 2005) 12 [↑](#footnote-ref-10)
11. Kirsten Gray et al ‘Social Justice and Native Title Report 2015’, Australian Human Rights Commission, 2015, 59 - 60 [↑](#footnote-ref-11)
12. Note that this is a problem in relation to both indigenous and non-indigenous community administrators who are able to wield a lot of individual power by virtue of being in charge of the ‘office’ [↑](#footnote-ref-12)
13. ‘Mistreatment of Older People in Aboriginal Communities Project’ (An Investigation into Elder Abuse in Aboriginal Communities, Office of the Public Advocate, 2005) 25 to 30 [↑](#footnote-ref-13)
14. This reverence and respect still exists and it is true to say that it is most clearly seen when law business is being conducted by communities: ‘Mistreatment of Older People in Aboriginal Communities Project’ (An Investigation into Elder Abuse in Aboriginal Communities, Office of the Public Advocate, 2005) 33 [↑](#footnote-ref-14)
15. Such as providing funding and infrastructure that allows them to regularly visit country both as a means of bolstering their own physical and mental health but also as a means of perpetuating their value and reverence within Western Desert normative systems in the context of a modern remote community [↑](#footnote-ref-15)
16. Mistreatment of Older People in Aboriginal Communities Project’ (An Investigation into Elder Abuse in Aboriginal Communities, Office of the Public Advocate, 2005) 6, Strategy 2; Regional Services Reform Unit, Department of Regional Development, *Resilient Families Strong Communities: A roadmap for regional and remote Aboriginal communities* (July 2016) [↑](#footnote-ref-16)