



Walk With Us

Aboriginal Elders Call Out to Australian People to Walk with them in their Quest for Justice

Warning: This book may contain photos of people who have passed into the Spirit world.

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Walk With Us:

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Introduction

This introduction remains, in the main, as it was presented in *This Is What We Said* published in February 2010. History has not changed, but the information has been extended to include comment on what has happened during the intervening period.

This Is What We Said followed the report entitled *Will They Be Heard?* released in November 2009. This report examined footage from three consultations undertaken by the Federal Government in three Aboriginal communities in the Northern Territory. It also looked at other community reports and five government regional reports from the same consultative process, which sought the views of representatives from all Northern Territory prescribed communities.

The views expressed during the three community consultations are strongly reflected in the reports of the five subsequent regional meetings, indicating that these are views commonly held across the Territory.

The consultations held in the Northern Territory Aboriginal communities, between June and August 2009, were but a brief moment in the long history of Aboriginal people seeking to have their voices heard and respected.

This Is What We Said focuses on the particular episode that began with the NT Government Inquiry into the Protection of Aboriginal Children from Sexual Abuse.

The co-authors, Pat Anderson and Rex Wild QC, released the *Ampe Akelyernemane Meke Mekarle: Little Children are Sacred* report on 15 June 2007. The report brought attention to alleged serious problems of sexual abuse, and other abuse, of Aboriginal children and highlighted the failure of governments over decades to provide basic services to address the growing problems in the areas of health, rehabilitation, education and housing. The Anderson and Wild report offered 97 recommendations focused on the areas of education, alcohol reduction and rehabilitation, family support services, empowerment of Aboriginal communities and the appointment of a commissioner for children and young people.

In the light of what was to follow, the recommendation to empower communities was significant. In the summary of the report it states, “Communities can take more control and make decisions about the future. The Inquiry’s report suggests ways in which this can happen including the role in which men and women can play, the introduction of community justice groups and better dialogue between mainstream society and Aboriginal communities.”

Before due consideration could be given to the report, the Federal Government announced its plan to introduce the Northern Territory Emergency Response (NTER),

or the Intervention as it is more commonly called. This happened on the 21 June 2007, just six days after the release of the *Little Children are Sacred* report and during the lead up to the 2007 Federal election.

The Intervention required the suspension of the Racial Discrimination Act in the Northern Territory and the imposition of ‘special measures’ on 73 prescribed Aboriginal communities. The Intervention was rolled out by the Australian Defence Force under the leadership of Major General Chalmers.

The ‘special measures’ introduced were:

- Income Management whereby 50% of welfare monies are quarantined and controlled through the use of a ‘BasicsCard’.
- 5-year leases whereby the government compulsorily takes over peoples land on leases
- Alcohol Restrictions imposing large fines for possessing alcohol in restricted areas
- Licensing of community stores
- Establishment of Government Business Managers in each community
- Pornography restrictions
- Control over publicly funded computers
- Law Enforcement measures

In addition to the compulsory 5-year leases, Government sought to obtain 'voluntary' longer term leases, of periods between 40 and 99 years, in return for new housing. *The Little Children are Sacred* report highlighted the problems associated with gross overcrowding in Aboriginal communities. Without longer term leases the government would refuse to build more houses.

In 2008, paralleling the early stages of the Intervention, the NT Government introduced local Government reform. This resulted in the establishment of eight super-shires. For communities it meant the loss of control over local community management. Bank accounts were frozen and assets, including equipment such as graders and community buses, were taken over and transferred to Shires.

Also in October 2008, a review of the Intervention was conducted by a panel of experts chosen by the Federal Government and chaired by Peter Yu, Executive Director, Kimberley Land Council. Many of the recommendations from this review were supported by Aboriginal people such as the recommendations to reinstate the Racial Discrimination Act and a change from compulsory income management to voluntary income management.

The response by Government was, however, to undertake its own extensive programme of consultations across all 73 prescribed communities. Government stated its preparedness to listen and wanted to hear the views

of those directly affected by these measures. The consultations were conducted between June and August 2009.

Many Aboriginal people did share their views during the lengthy consultations and the publication of *This Is What We Said* was one way of ensuring that some of those views that were provided during the consultation process were put on record. The full transcripts can be found in the *Will They Be Heard?* report at: www.concernedaustralians.com.au

In June 2010 the Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 was passed by the Australian Parliament. This legislation was said to reflect the changes that had been called for through the Government consultation process.

There has been much debate about this term 'consultation' and many have expressed the belief that the process was designed to achieve a pre-determined result. Certainly it did not lead to voluntary income management or changes requested to other measures but it did indicate a plan to later reintroduce the Racial Discrimination Act. This, however will be dealt with in the next section.

The *Little Children are Sacred* report appeared to be leading towards community empowerment, which is a long way from current government thinking. Prominent Australians have spoken out against the Intervention

in their call for genuine engagement with Aboriginal people.

In August 2010, two Elders attended the meeting at the United Nations Committee on the Elimination of Racial Discrimination in Geneva. They were listened to and the Concluding Observations from the Committee to the Australian Government that made recommendations for change indicating that their concerns over their loss of rights had been heard.

Aboriginal people are asking to be listened to and for the opportunity to be genuinely engaged in future planning. This book provides an opportunity to hear what has been said by a number of Elders about the current situation in the Northern Territory.

Their concerns were also conveyed to Navi Pillay, UN High Commissioner for Human Rights, at a private meeting with Elders and leaders in Darwin on 20 May 2011.

On 22 June 2011, a further round of consultations was announced by Government, providing a six-day period of notice to the 73 communities involved. The response from Rev. Dr. Djiniyini Gondarra OAM was immediate and can be found at the rear of the book.

‘concerned Australians’, June 2011

Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009

The above bill was passed by the Australian Parliament on 21 June 2010. There were some minor changes made but life on the ground for most Aboriginal people in the Northern Territory remained unchanged.

Income Management was extended to all welfare recipients in the Territory in an attempt to establish its non-discriminatory nature. Considering the majority of recipients of welfare benefits are Aboriginal, it continues to be seen as discriminatory and very little has changed for the majority of welfare recipients. The recommendation of the 2008 Review, to move to voluntary income management, was ignored.

There are new categories within the Income Management system where application for exemptions can be made. Assessments take place and a determination is based on whether the applicant is considered to be 'vulnerable'. Vulnerability refers to being socially vulnerable as well as financially vulnerable. Disadvantage alone makes accessing exemptions particularly difficult. However, leaving the scheme is discouraged and regular incentive bonus payments are offered to those who agree to remain on

Income Management, even though eligible for exemption.

Through the legislation, 5-year leases and, alcohol and pornography restrictions continue to be 'special measures'. The continuation of compulsory 5-year leases is seen by Government as a transition to longer term 'voluntary' leases. These lead to loss of control over land and community and impact on the right to self-determination. The request by Aboriginal people to have their land returned to their control has been denied.

One of the more difficult parts of the legislation is the part that deals with the reinstatement of the Racial Discrimination Act (RDA). Provision was made for its reinstatement on 31 December 2010.

By December 2010, the legislation had already been passed and central to this was the cementing of the NTER discriminatory measures into Australian law.

During the Senate Inquiry that preceded this legislation there had been numerous calls for a '*not withstanding*' clause to accompany the reinstatement of the RDA in order for it to be able to override any other discriminatory legislation. This did not happen. The result is that the RDA is unable to protect Aboriginal people in the Northern Territory from measures entrenched in law that discriminate against them.

In summary the Bill, with some minor changes, ensures:

Restrictions on Alcohol and Pornography will remain

- 5-year leases will continue till August 2012 when they are expected to be replaced by ‘voluntary’ long-term leases
- Community Store Licensing requirements will be strengthened
- Controls will continue on access to publicly funded computers
- Some restrictions will be placed on the Law Enforcement Powers of the Australian Crime Commission (ACC)
- A Reviewed Income Management Scheme will be introduced in June 2011
- The RDA will be reinstated on 31 December 2010 but will not have the power to prevail over other discriminatory legislation.

The Minister has indicated that the measures are now consistent with the RDA because they are inherently non-discriminatory or because they are able to be characterised as ‘special measures’.

This belief has been challenged by many highly respected members of the legal fraternity and human rights organisations. It has also been questioned by the United Nations.

The UN Committee on the Elimination of Racial Discrimination (CERD), Geneva, August 2010

The Australian Race Discrimination Commissioner, Graeme Innes, presented his report to the Committee on the Elimination of Racial Discrimination (CERD) on 11 August 2010.^a Included in his introduction were the following comments:

I now turn to Rosie [Kunoth-Monks] and Djiniyini [Gondarra], two Aboriginal elders who have traveled from Central Australia to deliver an urgent message about the survival of their Aboriginal brothers and sisters, and sons and daughters, living under the Northern Territory Emergency Response. You have both told me you decided to participate because you hoped it could ease your own, and your communities, despair. You both told me you have felt a need to step back from developments with the Northern Territory Intervention, to see and I quote “what is left of us mob”.

Rosie and Djiniyini, you are descendants of ancient peoples, the world’s oldest continuing culture, and you do not need me, or the Australian Government, to speak for you. But may I repeat your messages:

You did not consent to the Northern Territory Intervention.

You said that the Intervention is not a special measure



*Rev Dr Djiniyini Gondarra OAM and
Rosalie Kunoth-Monks OAM at the UN in Geneva*

You said that it is not a positive or concrete measure to strengthen your communities, culture or customary practice. It has had the opposite effect. It has removed people from their lands, and their own distinct practices and world values. And you said that without land and community at your spiritual centre, every Aboriginal person in Australia will be lost.

Thank you for coming, and giving those messages.

These very powerful messages were reflected in the Concluding Observations^b issued by the Committee later that month and in the recommendations made by the Committee to the Australian Government.

10. The Committee is concerned by the absence of any entrenched protection against racial discrimination in the federal Constitution and that sections 25 and 51 (xxvi) of the Constitution in themselves raise issues of racial discrimination. It notes with interest the recommendations from the National Human Rights Consultation Report and findings of a significant degree of community support for a federal Human Rights Act to thoroughly address the gaps in the existing model of human rights protection. The Committee also notes information provided on the State party's plans to review all federal anti-discrimination laws, with the intention of their harmonization under the Human Rights Framework. (arts. 1 and 2)



Rev Dr Djinyini Gondarra OAM and Rosalie Kunoth-Monks OAM with Australia's Race Discrimination Commissioner, Graeme Innes, in Geneva

The Committee urges the State party to ensure that the review of all federal anti-discrimination laws considers the gaps in legal and constitutional protections against discrimination and that consequent harmonization does not weaken the Racial Discrimination Act. It recommends that the State party take measures to ensure that the Racial Discrimination Act prevails over all other legislation which may be discriminatory on the grounds set out in the Convention. The Committee also recommends that the State party draft and adopt comprehensive legislation providing entrenched protection against racial discrimination

As well as,

16. *The Committee expresses its concern that the package of legislation under the Northern Territory Emergency Response (NTER) continues to discriminate on the basis of race as well as the use of so called “special measures” by the State party. The Committee regrets the discriminatory impact this intervention has had on affected communities including restrictions on Aboriginal rights to land, property, social security, adequate standards of living, cultural development, work, and remedies (arts. 1, 2, and 5).*

The Committee takes notes the State party will complete the reinstatement of the Racial Discrimination Act in December 2010, but is concerned by the continuing difficulties in using the Act to challenge and provide remedies for racially

discriminatory NTER measures. It also urges the State party to guarantee that all special measures in Australian law, in particular those regarding the NTER, are in accordance with the Committee's general recommendation No. 32 on Special Measures (2009). It encourages the State party to strengthen its efforts to implement the NTER Review Board recommendations, namely that: it continue to address the unacceptably high level of disadvantage and social dislocation being experienced by Aboriginal Australians living in remote communities throughout the Northern Territory; that it reset the relationship with Aboriginal people based on genuine consultation, engagement and partnership; and that Government actions affecting the Aboriginal communities respect Australia's human rights obligations and conform with the Racial Discrimination Act.

Especially noted is the Committee's ongoing concern that the legislation continues to discriminate on the basis of race and the use of 'special measures'. The Committee recommends that the Government take measures to ensure that the Racial Discrimination Act prevail over all other legislation which may be discriminatory on the grounds set out in the International Convention on the Elimination of all Forms of Racial Discrimination to which Australia is a signatory.

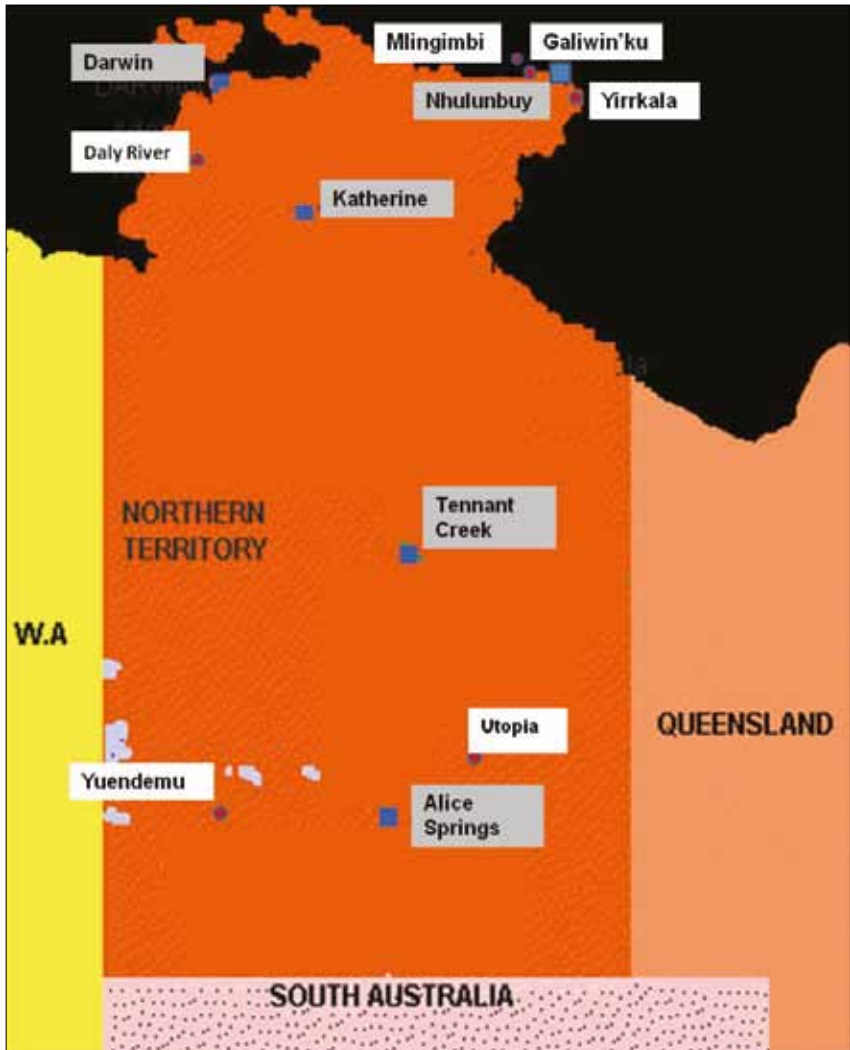
Communities in the Northern Territory

Galiwin'ku

Galiwin'ku is a traditional Aboriginal community located on the southern end of Elcho Island in North East Arnhem Land. There is a large number of tribal groups, with up to 22 different dialects being used in the community. Elcho Island is 550 kms east of Darwin. Apart from the weekly freight barge service, Galiwin'ku is accessed primarily by air. Travel time by air to Nhulunbuy is 30-45 minutes and to Darwin 1.5 hours. It is home to 2200 Yolngu people. The population varies during the seasons, with many of the outstation residents migrating to the community during the wet season due to inaccessibility.

Naiyu - Daly River

The traditional owners of the area are the Malak Malak people who live both in Naiyu and at Wooliana downstream from the community. With a population of about 500 people it is located around 220 kms from Darwin and 300 kms from Katherine where its shire office is now located. There is a school in Daly River, but most students go to high school in Darwin. There are two schools within the region, a Catholic School with education to Grade 10 and Wooliana School where up to Grade 7 is available. Merrepen Art is also situated within the township; this is a meeting place for the creation of great Aboriginal paintings and craft.



The Northern Territory

Yuendumu

Yuendumu is the main centre for the Warlpiri people and is home to around 800 people. Located in Central Australia, it is 290 kms north west of Alice Springs on the edge of the Tanami Desert. Smaller outstations are located around Yuendumu. It has a thriving artist community as well as a very successful and comprehensive youth development and leadership program, the Mount Theo Program. The excellent bi-lingual education program was forced to close due to changed Government policy. The community runs the Warlpiri Media Association (WMA), a community-run radio and television studio, broadcasting in Warlpiri language.

Utopia

Utopia is an Aboriginal homeland covering 3,500 sq kms that lies on a traditional boundary of the Alyawarra and Anmatjirra people, the two language groups which predominate there today. It is situated about 270 kms north east of Alice Springs. In recent years Utopia has a record of self-determination based on a well-developed communal will and widespread participation. The community has preferred to live in a number of outstations rather than in a major 'municipal' centre, believing that this engenders a better lifestyle. This has been proven in two studies in recent years. Five small schools are distributed amongst the outstations. It has a vibrant artist community which is highly regarded.

Yirrkala

Yirrkala is an Aboriginal community in East Arnhem Land, 18 kms south east of the large mining town of Nhulunbuy. It has a population of about 850 people, of whom nearly all are Yolngu, and also acts as a regional centre for a further 1200 people living on surrounding Aboriginal homelands. The people are known for their strong leadership and enterprise. Yirrkala ran a very successful bi-lingual learning program until it was forced to close due to changed Government policy. Art has been created here since time immemorial and there is an excellent art centre, the Buku-Larrnggay Mulka Centre. Yirrkala is home to members of the internationally famous Aboriginal rock band Yothu Yindi.

Milingimbi

The community is the main settlement on Milingimbi Island which forms part of the Crocodile Island Group, located approximately half a km off the north coast of Central Arnhem Land in the Arafura Sea. Milingimbi is approximately 440 kms east of Darwin. It has a sealed, all weather air strip. The community is home to around 1500 people. The Walamangu people were the first inhabitants followed by the Wangurri and Gupapuyngu people. Many other tribes followed. Milingimbi has a long history of contact and trade with the Macassans who came each season to collect trepang. Two of the main languages are Gupapuyngu and Djambarrpuyngu.

What the Elders Are Saying

The Intervention

Before the Intervention came about, Yirrkala was the strongest community in all Arnhem Land, because of its leaders and because of the initiatives that were put forward to carry on towards the next few years... we thought we were like a beacon on the hill, because of what our leaders, our communities are coming up with, great ideas, and this is talking in business terms. So since Intervention came... you can hear from each and everyone of us the chaos, the destruction in the minds of the grass root people, coming and destroying what we had in whole to restore our community as a better community.

Djapirri Munungirritj, Yirrkala

The Intervention has brought the history of welfare reform back today. We don't want that. It hurts. Today a lot of our people are committing suicide; today a lot of our people can't cope with the Intervention.

George Gaymarani Pascoe, Milingimbi



Djapirri Mununggirritj

It is destroying our communities. It has taken away our rights and it has failed to deliver proper services. The pain of the whole thing has destroyed quite a large number of my family on Utopia.

Rosalie Kunoth-Monks OAM, Utopia

So when I see the Intervention coming out it was a cry of our heart, it was a cry of many years of a true leader working towards making my community a better community. It was a cry, “*What is happening now, who is it to blame?*” Is it the Aboriginal people that have not listened to the government or is it the government not listening to the grass root people? So intervention finally came about in our community and there were many, many very angry people and I can gather that if this anger starts in the community it can affect businesses, education, homes, health and poverty. This Intervention has brought about brokenness in family lives. That’s why we see young people go into depression because they are lost; lost [*because*] of someone else’s culture, coming in and interfering with our culture... and in the education system. These are the things that we need to sort out with your help as Australians, our fellow countrymen as a whole.

Djapirri Mununggirritj, Yirrkala



Rev Dr Djiniyini Gondarra OAM with the Rev Alistair Macrea

... the Intervention is a deliberate measure that destroyed the life of Indigenous people.

George Gaymarani Pascoe, Milingimbi

The truth is these Governments have used the *Little Children are Sacred* report as a Trojan horse to get what they really wanted.

We believe the Northern Territory Government and Federal Government are using the Intervention as an excuse to take our land.

Aboriginal communities are communities where there are a lot of rich minerals and other resources that Government would use.

Rev Dr Djiniyini Gondarra OAM, Galiwin'ku

[As a result of Intervention] tremendous amount of trauma, tremendous amount of soul searching of Aboriginal people feeling that they have done something wrong but they couldn't put their finger on what it is that's wrong. They've come to the conclusion what is wrong is that we were born black into a different culture...

Rosalie Kunoth-Monks OAM, Utopia



Harry Jakamarra Nelson

Shires and Hub Towns

First of all the Intervention was introduced in 2007 and immediately after, maybe one year later, maybe two years later, the shires came in, which made it really worse... Our council was taken over, was thrown out, we had our own Elders, both women and men; they made decisions solving the problems. Then the Intervention, the shire came in, everything has been taken over; we have no property; our rights have been taken.

... our shire is conducted from, run by one person from Alice Springs, stationed in Alice Springs. We have an office out there [Yuendumu] but they do not make decisions out there. We have Aboriginal members, men and women, not on a council, but on a board, a special board. But they have no say whatsoever, making decisions what should happen, how much money should be spent on the community. All those rights have been taken off us.

Harry Jakamarra Nelson, Yuendumu

It meant that, it didn't really matter what way you look at it. Even if you did give up your land or not, you are still being disempowered. The shires came in and took over everything.

*Miriam Rose Ungunmerr-Baumann AM, Nauiyu -
Daly River*



Miriam Rose Ungunmerr-Baumann AM

My community is targeted to become one of the hub towns in the NT, where people living out in the outstations, gonna be moved in from their homelands and will congregate around Yuendumu. A lot of the people who live out on the outstations don't want to move in because it will cause a lot of conflict, a lot of fights, and disturbances.

Harry Jakamarra Nelson, Yuendumu

... the Elders believe the Northern Territory Government, working hand-in-hand with the Federal Government on the Intervention, are attempting to force Aboriginal people off their traditional lands and into hubs. People are living under the threat of being removed from their ancestral home ... with no discussion with the First Nations people.

Rosalie Kunoth-Monks OAM, Utopia

But people have been disempowered, they have left a void and people do not know which way to turn to. There are many people saying in the communities that they want the church back after 30 years. Because we are in a different era now, and the reason why they want the church back is to help them to help educate our kids, to get advice from, or bounce things off, because they feel there is no one to talk to about the things the government is telling us, and afraid of being short changed and its been many, many times we have been short changed.

*Miriam Rose Ungunmerr-Baumann AM, Nauiyu -
Daly River*



*Harry Jakamarra Nelson with former Minister for Aboriginal Affairs,
Hon Ian Viner AO QC*

Customary Law

I call for a new approach that will bring real law and justice, and make Australia a leader amongst Nations in relation to their Indigenous people. This can only be done by recognising us as the First Australian People and our legal system as the First Australian Legal System. Let's start the real dialogue and find the real lasting solutions to the Law and Order issue.

Rev Dr Djiniyini Gondarra OAM, Galiwin'ku

Customary Law covers everything – looking after the country, looking after the people, looking after yourselves, having respect for yourselves or towards the other people. Customary Law does not include paybacks or promise wives.

Harry Jakamarra Nelson, Yuendumu

In our eyes, in our Law... no individual people can decide or make a decision on what should happen in their community. It's got to be the whole community living in that area got to agree.

Harry Jakamarra Nelson, Yuendumu



Rev Dr Djiniyini Gondarra OAM

We are being invited in the first referendum to become a citizens of Australian law but we were still remain to have our laws. And today we still assent into that law. What this country has not recognised [*is*] that Aboriginal people right across this nation ... we still continue to assent into two laws ... Our Law is immemorial Law! We call it Madayin. It's a foundational Law given by our ancestors.

Rev Dr Djiniyini Gondarra OAM, Galiwin'ku

... no one seems to want to understand or recognise that we are citizens of our own Clans and Nation States; it's like we are a non people and no one can hear us or have serious dialogue and diplomatic relationships with us.

Let's hope one day that things will change and we will be respected as a real sovereign people. Then other Australians will sit down and talk to us about some real solutions to the problems we face. This would begin a new era of hope and prosperity where a true rule of Law existed, offering law and justice on an equal footing to all the people of this land. Then we would start to solve some of the very difficult problems we face and change the very uncertain, dismal and sometimes frightening future that many of our people face.^c

Rev Dr Djiniyini Gondarra OAM and Richard Trudgen



Dhanggal Gurruwiwi

Culture, Language and Identity

... why it [bi-lingual learning] has to be abolished from the school and not to be taught, I do not know... because that's like a person coming in and trying to grab the language away from us.

Djapirri Mununggirritj, Yirrkala

But children in our community should know who they are, and understand where they come from, and which land they belong to, which clan they belong to and what language groups; what dreaming they belong to and things like that.

Dhanggal Gurruwiwi, Yirrkala

... children in our communities should come from the known to the unknown, and it is also very important that children growing up in our communities, I believe, should understand and be able to identify in who they are, so that they will be able to grow with dignity and knowing where they have come from. And also come to the stage when they are older they can cope with the expectations that we have from people from the wider community, and they will be able to walk in confidence in two worlds.

Dhanggal Gurruwiwi, Yirrkala



Rev Dr Djiniyini Gondarra OAM listening to Rosalie Kunoth-Monks OAM

Respect

When I travelled to Geneva in the company of Dr Gondarra, I was not quite sure how we were able to express not only the pain, but the control, and the loss of dignity, the loss of rights of Indigenous Australians. At the end of that or during that visit, I also felt for the first time that I was indeed a part of the human race. I have to go out of Australia to have that wonderful feeling and the lack of control that was on me, in a different country a long, long way from home.

Rosalie Kunoth-Monks OAM, Utopia

[At the UN] we were able to speak from the soul. The environment in which we were speaking was one focused solely on human rights; it was not intruded upon by politics.

Rev Dr Djinyini Gondarra OAM, Galiwin'ku

So, in going to Geneva I was indeed thrilled to find there were people who felt Aboriginal people are worthwhile, even if I have to go to the other side of the world to find this out ... our words fell on receptive ears, people that did not treat us as children or brainless, they were able to understand what we were saying.

Rosalie Kunoth-Monks OAM, Utopia



Miriam Rose Ungunmerr-Baumann AM with Bishop Hilton Deakin

I would envisage dialogue to take place ... with the people of Australia, accepting each other as human beings first and foremost, being proud of the diversity of cultures that is now evolving in Australia ... most of all being proud that we have one of the longest continuing cultures in history.

Rosalie Kunoth-Monks OAM, Utopia

These are the things that we need to sort out with your help as Australians, our fellow countrymen as a whole.

Djampirri Mununggirritj, Yirrkala

What I am saying is we are not being listened to, and if there was a partnership with Aboriginal people from our communities with the government I think the things we talking about here today it would get better. But there is just no opportunity given to our people.

*Miriam Rose Ungunmerr-Baumann AM, Nauiyu -
Daly River*

Does there need to be a policy about Aboriginal people? Does it need to come down from the Government? Why not have a dialogue with the Aboriginal people and get some direction from them, from us?

Rosalie Kunoth-Monks OAM, Utopia



George Gaymarani Pascoe

Heritage

... thinking again back in history to the twenties and thirties when Neville the Chief Protector said *let's extinct Indigenous people from the race as a dying pillar*. That was one of the things that came across my mind in my homeland. Today Intervention did literally, I say literally, deliberately ... come across to us as a history that never ends.

George Gaymarani Pascoe, Milingimbi

Today we are fighting for what we have, the justice, the freedom, the rights to our land, the things that we own, our culture, the diversity of our culture that has been existed 40,000 years ago, still practised and today here we are and there are no retreat, no surrender, and we are here to tell you who we are.

We are fighting for what we want; we are fighting for the justice of the land, for the justice to the people, for the culture we have, the richness of our culture for the land we own, the law

George Gaymarani Pascoe, Milingimbi



Rosalie Kunoth-Monks OAM

It is the land that holds us together and following the second invasion of the 2007 Intervention, we are hurting, we are suffering.

Rosalie Kunothe-Monks OAM, Utopia

I am the traditional owner of Milingimbi and I hold my full responsibility of my land and my people in that country, and I am here telling you and the rest of my colleagues, who we are, we are the First Australians people of this country.

George Gaymarani Pascoe, Milingimbi

We lived 40,000 years ago.... So we are a cultured people, with a cultured background, we are the full traditional people of the country.

George Gaymarani Pascoe, Milingimbi

We have lived together in this society, this community. We are the Australians. Don't let the other people, the First People of this country, be rejected! Being seen as the second class citizen! Being seen as an outcast! We have lived in this country as a foreigner! We invite you brothers and sisters, walk with us, then fight a system that victimises people.

Rev Dr Djiniyini Gondarra OAM, Galiwin'ku

Statement by Elders

TO THE PEOPLE OF AUSTRALIA
7 FEBRUARY 2011

We are the people of the land. The land is our mother. For more than 40,000 years we have been caring for this land. We are its natural farmers.

Now, after so many years of dispossession, we find once again we are being thrust towards a new dispossession. Our pain and our fear are real. Our people are again being shamed.

Under the Intervention we lost our rights as human beings, as Australians citizens, as the First People of the Land. We feel very deeply the threat to our languages, our culture and our heritage. Through harsh changes we have had removed from us all control over our communities and our lives. Our lands have been compulsorily taken from us. We have been left with nothing.

The legislation under which we now live does not comply with international law. It is discriminatory. We are no longer equal to other Australians. We are no longer equal to you.



*From left to right: Dhanggal Gurruwiwi, George Gaymarani Pascoe,
Rosalie Kunoth-Monks OAM, Betty Pike,
Miriam Rose Ungunmerr-Baumann AM, Djapirri Mununggirritj,
Rev Dr Djiniyini Gondarra OAM and Harry Jakamarra Nelson*

As people in our own land, we are shocked by the failure of democratic processes, of the failure to consult with us and of the total disregard for us as human beings. We demand the return of our rights, our freedom to live our traditional lives, support to develop our economic enterprises to develop jobs and to work towards a better future for all our peoples.

So extreme have been the actions against our people that we must appeal to all people of Australia to walk with us in true equality. Speak out and help to put an end to the nightmare that Northern Territory Aboriginal people are experiencing on a daily basis.

Signed by:

Rosalie Kunoth-Monks OAM, Utopia

Rev. Dr Djiniyini Gondarra OAM, Galiwin'ku

Harry Nelson, Yuendumu

Miriam Rose Ungunmerr-Baumann AM, Nauiyu

Djapirri Mununggirritj, Yirrkala

Dhanggal Gurruwiwi, Yirrkala

George Gaymarani Pascoe, Milingimbi



Rt Hon Malcolm Fraser AC CH GCL PC

What Was Said by Malcolm Fraser

about the Intervention:

“The Intervention was paternalistic and demeaning to Aboriginal people.”

about Income Management:

“There is an absence of equality and respect, which is especially demonstrated by the continuing policies of income management.

I can imagine no policy more demeaning to any person.”

about Leases over Aboriginal Land:

“[The communities] have to sign five year, then 40 year leases which is really losing control.”

about Health, Education and Housing:

“and there continues to be gross underinvestment in health, education and housing.”

about Reinstatement of the Racial Discrimination Act:

“The Federal Government misled Australians when it ended the suspension of the Racial Discrimination Act, but maintained discriminatory elements of the Intervention.

It was a pretence and the Parliament, I believe, knows it was a pretence.”



Hon Alastair Nicholson AO RFD QC

What Was Said by Alastair Nicholson

about the Intervention:

“Australia is fast becoming a target of criticism internationally, and a deserved target of criticism internationally, for its human rights record and particularly for its treatment of Indigenous people.”

about s91 of the NTER Law:

“That is in fact one of the worst pieces of legislation that came with the Intervention, the concept that a sentencing judge was no longer able to take into account custom, customary law, culture, in arriving at a sentence.

That to me, is one of the most racist and offensive pieces of legislation that’s ever been passed by the Federal Parliament.”

about Customary Law:

“But why are we so reluctant in Australia to adopt policies that other countries have done quite happily? Canada, for example, has given recognition to Indigenous Customary Law... why are we so reluctant to take steps like this?”

What Was Said by Aboriginal People from Other Parts of Australia

Throughout the history of the Intervention it has never been designed or intended to deliver positive outcomes to Aboriginal people. It is only a blunt political tool to hammer and crush Aboriginal resistance, Aboriginal aspirations.

It is simply a matter of respecting the humanity, dignity and culture of Aboriginal people and empowering those people to take charge of their own lives, their own communities and their own destinies.

Sam Watson, Queensland

The Intervention is simply a Trojan horse to get the mineral and other resources from Aboriginal land. All those things were developed by the previous Government and haven't been changed by this Labor Government.

Sadly I don't see much hope for Indigenous Affairs in the current climate.

James Everett, Tasmania

I think it's a despicable policy that still has the filthy stench of John Howard and those people around him that helped craft it. The policy itself and the people who designed it have no capacity whatsoever to acknowledge and honour the human capacity and worth of Aboriginal people.

Chris Sarra, Queensland

There was limited consultation. I couldn't see Aboriginal people saying 'we're gunna handball youse the power to Lord it over us'. We're not silly, you know. We had systems in place for tens of thousands of years before this mob come along. But we operate from a system of sharing and caring with each other and the land. And that is the key. They've taken away our land, and it is cultural genocide, like when you take the children away. It demoralises our adults and parents and just perpetuates what has happened in this country since invasion began.

Reg Blow, Victoria

I'm all in favour of the Intervention being scrapped. I've travelled the world and lived on Indigenous communities all around the world from the 70s onwards and alcohol management plans and interventions have never worked around the world. I've never supported it since day one because it has absolutely nothing to do with violence and child abuse; it's to do with land grabs.

Gracelyn Smallwood, Queensland

I've never supported the Intervention. I don't believe that it's an effective measure to actually do anything. Essentially, it's a knee-jerk reaction to a long history of neglect by the government in its ability to deliver services.

Kado Muir, Western Australia

The Australian government did not appear to approach the consultations [2009] on the redesigned NTER (Intervention) measures with the objective of obtaining the free, prior and informed consent of the peoples affected.

It appeared as if the government had a predetermined outcome in mind in entering into the consultations and was not truly open to responding to the concerns of Aboriginal people.

Governments need to change the way they do business if future consultations aren't simply going to be an exchange of information concerning a fixed, predetermined policy position.

Mick Gooda, ACT

Now I've come to the opinion that regardless what good things they may do, the bad far outweighs that and the Intervention must be scrapped as soon as possible.

Ray Jackson, New South Wales

... I've found in my research, in looking for commercial and industry advice, was a statement written by 'Nugget' Coombs where he commented on the Native Title Ten-Point plan. And what he said in that book was that this was a Native Title Act written for mining companies and not for Aborigines.

They're moving Aborigines [now] off the land so they don't have to deal with them when the mining comes in to rip open their land.

Michael Anderson, New South Wales

Nothing within the Intervention gives me confidence. It degrades Aboriginal people... All the Government had to do was negotiate with the traditional owners.

Neil Gillespie, South Australia

We do know that throughout Australia, Aboriginal communities are in need of support. That is in a range of welfare programs, but it is also in relation to health, housing, all the basic facilities, but also the right of a distinct people to decide for themselves how best to get out of a situation that other people put us in.

Michael Mansell, Tasmania

^dSee notes

What Was Said by Leading Australians

Australia has faced questioning at the United Nations by member states and independent experts regarding its Indigenous policies. The failure to restore the rights of Aboriginal people is currently being scrutinised under the Universal Periodic Review process of the UN Human Rights Council and was criticised in 2010 by both the UN Special Rapporteur on Indigenous Peoples' Rights and the UN Committee on the Elimination of Racial Discrimination. Such scrutiny can only reveal just how far Australia is lagging behind international standards on human rights policies. Changes are urgently needed.

In such a context, we have become increasingly concerned by the failure of the Federal Government, with the tacit support of the Opposition, to properly address problems facing Aboriginal people in the Northern Territory. In particular, the Northern Territory Emergency Response (the Intervention) has been progressed without credible consultation with, or the approval of, Aboriginal people.

While there are some limited aspects of the Intervention that have been viewed positively in some Aboriginal communities, it is the compulsory nature of the policies which are of concern.

It is our belief that inequality cannot be addressed by the removal of control from affected peoples over their lives and land, as is current Government policy.

Positive change requires respect and genuine engagement with the people themselves at the local level, rather than an isolated policy development in Canberra.

Examples of the failure of policies include:

- The delayed, incomplete and flawed reinstatement of the Racial Discrimination Act.
- The entrenchment of discrimination against Aborigines in the criminal law of the NT by failing to repeal s. 91 of the NTER Act which ensures that no customary law or cultural practice, excuses, justifies, authorises, requires or lessens the seriousness of any criminal behaviour with which the Crimes Act is concerned.
- The retention and widening of involuntary income management in order to give it a veneer of non discrimination.
- The failure to provide proper housing exemplified by the slow pace of doing so and the fact that of new houses built by Government under the SIHIP¹ programme to alleviate overcrowding, there is a failure to take into account the size or requirements of the average Aboriginal family
- The failure to provide full time education to Aboriginal children, which is a right of all Australian children. Examples include:

The fact that the 46 Aboriginal Homeland Learning Centres for which the NT Department of Education and Training² is responsible have never been allocated full-time qualified teachers and are reliant on fly-in fly-out teachers, often for only one or two days per week.

The failure of NTER measures such as the policy of removal of welfare entitlements where there is unsatisfactory school attendance, in that recent figures from the NT Department of Education² show a steady fall in attendance at schools in very remote areas between 2006-7 and 2009-10.

- Maintaining the intervention despite evidence such as:

The Health Impact Assessment³ launched in March 2010, which found that the Intervention could potentially lead to profound long-term damage to overall health and cultural integrity.

The 2010 Enquiry into NT Child Protection⁴ which links health problems to community disadvantage and poverty associated with overcrowding, unsafe and stressful environments, poor community infrastructure, poor nutrition and limited health care, all of which were supposed to have been addressed by the intervention.

The Government's policy approach must move from one of bureaucratic control by Canberra to one of recognition of Aboriginal leadership, negotiation, capacity building and direct input by Aboriginal people to local government decision-making. Without the direct

engagement with Aboriginal people, policy changes will fail. With Aboriginal leaders, Government must commit to a policy of support by developing economies, encouraging investment and creating jobs by improving transport and communication systems, and where appropriate, the use of taxation incentives.

Aboriginal people in the Northern Territory must have choice and must not be forced to abandon their lands and heritage in order to obtain services that are automatically provided to other Australians. The vision that is created must be one that is shared by both black and white.

We accordingly call upon the Government to start afresh, to comply with our international obligations by bringing the Northern Territory Intervention to an end, including the termination of involuntary income management and securing Aboriginal rights in accordance with the Declaration on the Rights of Indigenous Peoples. Present flawed legislation including that purporting to re-instate the Racial Discrimination Act and s91 of the NTER Act should be repealed and the Racial Discrimination Act reintroduced in an unqualified form.

Signed on 7 February 2011:

Prof Jon Altman, CAEPR, ANU

Diana Batzias, President International Social Services Australia Branch

Prof Larissa Behrendt, Director, Jumbunna, UTS, Sydney

Rev Shayne Blackman, National Administrator of UAICC

Hon Sally Brown AM, Chief Magistrate for Victoria

Julian Burnside QC, Barrister and Human Rights Advocate

Hon Fred Chaney AO, former Minister for Aboriginal Affairs 1978 – 1980 Prof

Patrick Dodson, Chair, Kimberley Institute

Hon Elizabeth Evatt AC, former Chief Judge of the Family Court

Rt Hon Malcolm Fraser AC CH GCL PC, former Prime Minister 1975–1983

Most Rev Philip Freier, Anglican Archbishop of Melbourne

Rev Dr Djiniyini Gondarra OAM, Elder Galiwin'ku, NT

Hon Paul Guest QC, former Family Court Judge

Rosalie Kunoth-Monks OAM, Elder Utopia, NT

Phil Lynch, Executive Director, Human Rights Law Resource Centre

Rev Alistair Macrea, President of the Uniting Church of Australia

Assoc Prof Sarah Maddison, University of New South Wales

Prof Tim McCormack, University of Melbourne

Hon Ron Merkel QC, former Federal Court Judge

Hon Colleen Moore, former Family Court Judge

Graeme Mundine, former Secretary of NATSIEC

George Newhouse, Lawyer and Human Rights Advocate

Hon Alastair Nicholson AO RFD QC, former Chief Justice of the Family Court

Peter Norden AO, Convenor of the Victorian Criminal Justice Coalition

Dr Sarah Pritchard, Barrister, University of New South Wales

Prof Cheryl Saunders AO, Laureate Professor, Melbourne Law School

Bro Paul Smith AM, CEO, Lasallian Foundation

Prof Fiona Stanley AC, Telethon Institute for Child Health Research

Rev Ken Sumner, Chair, Uniting Aboriginal & Islander Christian Congress

Assoc Prof John Tobin, University of Melbourne

Hon Ian Viner AO QC, former Minister for Aboriginal Affairs 1975 – 1978

Bret Walker SC, Barrister

Brian Walters SC, Barrister and Human Rights Advocate



*Navi Pillay, UN High Commissioner for Human Rights
with Aboriginal Leaders in Darwin, May 2011*

What Was Said by Navi Pillay, UN High Commissioner for Human Rights

Extracts from the press conference by the High Commissioner in Canberra on 25 May 2011

“I welcome the advances the Government has made in addressing some of the disadvantages faced by Aboriginal and Torres Strait Islander peoples. In particular, I welcome the National Apology and Australia’s formal recognition of the UN Declaration on the Rights of Indigenous Peoples, along with the significant investment being made to improve Aboriginal and Torres Strait Islander health and education. However, I believe these efforts are being undermined by policies that fail to recognise the right to self-determination for indigenous people, which is a key element of the UN Declaration.”

“In my discussions with Aboriginal people, I could sense the deep hurt and pain that they have suffered because of government policies that are imposed on them. I also saw Aboriginal people making great efforts to improve their communities, but noted that their efforts are often stifled by inappropriate and inflexible policies that fail to empower the most effective, local solutions.”



Navi Pillay with Australian Commissioner for Human Rights, Mick Gooda, and Aboriginal Leaders in Darwin, May 2011

“I would urge a fundamental rethink of the measures being taken under the Northern Territory Emergency Response. *There should be a major effort to ensure not just consultation with the communities concerned in any future measures, but also their consent and active participation*¹. Such a course of action would be in line with the UN Declaration.”

“Australia has such strong foundations, with functioning institutions that have checks and balances and a proud tradition of egalitarianism. It is therefore disappointing to find that the system is failing to protect certain groups. The issues of indigenous disadvantage and the treatment of asylum seekers need to be tackled through a human rights based approach, not driven by short term electoral advantage and political goals.”

A Further Round of Consultations 2011

On 22 June the Government announced there would be a new round of Consultations across the Northern Territory.

On 28 June, six days later, the first Consultation will take place with the community of Tennant Creek.

Information about the Consultations can be found in a 28-page document, the *Stronger Futures in the Northern Territory discussion paper*.⁵

The document is written in the English language and provides an agenda set by Government which includes 33 questions.

The *Stronger Futures in the Northern Territory discussion paper* can be accessed from the internet or by asking for a copy from a Government Business Manager.

On 25 May 2011, Navi Pillay, UN High Commissioner for Human Rights, said:

There should be a major effort to ensure not just consultation with the communities concerned in any future measures, but also their consent and active participation.

Response to the Prime Minister Julia Gillard's Announcement of a Second Intervention in the Northern Territory

The Government and the people of Australia are only able to achieve true reconciliation with Aboriginal people of the Northern Territory if the environment for negotiation is changed and justice, that was so brutally removed by the Intervention, is restored. Only through respectful dialogue and working together can we call Australia a nation based on the principles of democracy.

Future negotiations will rely upon the acceptance of the following:

1. The Aboriginal people in the 73 prescribed communities of the Northern Territory do not welcome any further consultation with the Government until it acknowledges the failures of the current Intervention.
2. The Aboriginal people of the Northern Territory will only endorse a new initiative by the Government to improve the lives of Aboriginal people if the Government first establishes a diplomatic and respectful dialogue, negotiation and relationship with the traditional lawmen and lawwomen in the communities to be affected. These are the people that are seen as the true leaders by their communities, who are charged with maintaining ceremony, language,

law and order. They must be properly consulted before any new initiative can take place in their communities.

3. The name “Intervention” and “Emergency Response” must be removed from any future initiative, which should instead focus on the goals of Education and Empowerment of Aboriginal People in the Northern Territory. It must dispel the prejudice and racial discrimination of Aboriginal people that is embedded in the Intervention, and which has created deep emotional pain and shame amongst Aboriginal people.
4. Any initiative aimed at education and training must support the right of Aboriginal people to maintain their Indigenous languages, cultural practices and the capacity to live and work on country.
5. To effectively support appropriate and beneficial development in Aboriginal communities, the Government must replace Government Business Managers with mentors that support and facilitate education, capacity-building and locally-controlled development in Aboriginal communities.

This is the will of the Aboriginal people of the Northern Territory.

Released by:

Rev Dr Djiniyini Gondarra OAM, 26 June 2011

