



National Council of
Churches in Australia
NATSIEC

19th August 2009

Professor James Anaya
Special Procedures Division
Office of the High Commissioner for Human Rights
1211 Geneva 10, Switzerland
Via email: tlessor@ohchr.org

Dear Professor Anaya,

Thank you for this opportunity to make a submission to your mission on behalf of The National Aboriginal and Torres Strait Islander Ecumenical Commission (NATSIEC). NATSIEC is the peak Indigenous ecumenical body in Australia. It is a commission of the National Council of Churches in Australia (NCCA).

As well as working with Churches on issues of importance to Indigenous peoples we also have an education and advocacy role. In recent years we have campaigned to end Indigenous poverty through our campaign Make Indigenous Poverty History.

Since its announcement in 2007, NATSIEC has expressed strong concerns about the Northern Territory Emergency Response (the Intervention) and will restrict our remarks to this issue in this submission. I would like to state that we have never been opposed to the Intervention in its entirety. We have welcomed the focus and resources that the Intervention has brought to entrenched issues which have resulted from decades of neglect. However, we do not support the way the Intervention was instigated, nor how much of it was implemented.

In June 2009, NATSIEC hosted a Forum attended by Indigenous Church leaders who met to discuss the Northern Territory Intervention. The aim of the Forum was to develop a common voice from Aboriginal and Torres Strait Islander Church bodies and to develop a common platform for action. A Forum statement was developed and is attached. However, I would like to reiterate some key points here.

Negotiation

NATSIEC asserts that Indigenous peoples have the right to negotiate with Governments. The Intervention was implemented without any prior consultation with Indigenous peoples and has continued in this vein. The NTER review report¹ acknowledged that any successes of the

¹ Northern Territory Emergency Response Review Board Paper, 30th September, 2008.

Anglican Church

Antiochian
Orthodox Church

Armenian
Apostolic Church

Assyrian Church
of the East

Chinese Methodist
Church

Churches of Christ

Congregational
Federation

Coptic
Orthodox Church

Greek
Orthodox Church

Lutheran Church

Mar Thoma Church

Religious Society
of Friends (Quakers)

Roman Catholic Church

Romanian
Orthodox Church

Salvation Army

Syrian
Orthodox Church

Uniting Church

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Intervention have been overshadowed by the failures of communication and consultation. Further, the recently released report by the Senate Select Committee on Regional and Remote Indigenous Communities² commented that “explicit communication strategies need to be built in to all programs”. However, often these consultations or strategies are put in place after the program has been developed. What is needed is for Governments to understand that Indigenous peoples must be active agents in their own development from the start. Indigenous peoples must be actively involved in identifying their own needs and negotiating with governments on agreed programs and outcomes. This is a very different process than consulting about the implementation of already developed programs.

Governments also need to learn how to negotiate effectively with Indigenous peoples. Proper negotiation would include learning to; respectfully listen; follow proper protocols and most importantly negotiate in relevant Indigenous languages. Governments need to understand and negotiate in appropriate languages for each community and ensure that the nuances of the languages are well understood.

Discrimination

In order to implement the Intervention it was excluded from the *Racial Discrimination Act (1975)* (RDA). NATSIEC regards this exclusion as being discriminatory and calls on the Government to reinstate all aspects of the RDA. Although we acknowledge the Government’s stated intention to reintroduce the RDA, we have concerns that they will continue to exclude some parts of the Intervention. NATSIEC is of the opinion that all legislation should conform to the RDA and that Government must urgently assess how it can achieve its policy objectives without discrimination.

Further to this point, we have concerns about the ease with which the RDA was suspended and believe this highlights the lack of protection for human rights in Australia. We support the call for human rights to be enshrined in the Constitution and the adoption of a Human Rights Charter.³

Income Quarantining

NATSIEC believes that blanket quarantining of income is discriminatory. It has brought shame and humiliation to many. The Government has

² Senate Select Committee on Regional and Remote Indigenous Communities, Second Report, 2009, Page 73:4.40.

³ Submission to the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people – Australia mission, August, 2009, Indigenous Peoples’ Organisations Network of Australia.

asserted that substantial benefits have been gained by the introduction of income quarantining⁴, however we do not believe that the evidence cited is reliable enough to make this claim. Further to this point, if income quarantining is as beneficial as the Government claims then it should be applied to all welfare recipients, not only Indigenous peoples.

The Government's Option One⁵, where some people are able to be excluded from income management sets the wrong tone. This option makes the assumption that all Aborigines in the NT receiving Government transfers need to have their money managed. In order to be exempt the Aboriginal people have to prove to Government that they can manage their money. This is paternalistic and unjust and is the exact opposite of what should be in place. If income management is deemed (based on proper evidence and in accordance with the RDA) to provide beneficial outcomes for children and families at risk then Government should only be able to implement income management for those people who have proved that they are not providing for their children.

Learn from Success

Despite the high levels of disadvantage evident in many Aboriginal communities, there are many examples of successful programs and initiatives. However, the Intervention has tended to start new things rather than build on existing strengths in the community. An example is the child health checks which in many cases were duplicated.⁶ Often programs fail in the long term because they are not funded properly over long periods of time and are not resourced appropriately. This would be avoided if Governments started any policy development by talking to the communities and listening properly to what they need and what their aspirations are.

Learn from the Churches

The Churches have a long history of engagement with Indigenous communities in Australia. They are also key service providers in the Northern Territory. Many Aboriginal Church leaders are also leaders within their communities. There is no doubt that over the past one hundred years of presence in the NT, Churches have learnt much about how to do things, and how not to do things. However, this wealth of experience and long term relationship with NT Aborigines is generally ignored by Government. Church leaders in the NT are often frustrated that Government do not engage with them to help bring better outcomes

⁴ Future Directions for the Northern Territory Emergency Response: Discussion paper, 2009, Department of Families, Housing, Community Services and Indigenous Affairs, p 10.

⁵ *ibid.* p 11

⁶ Senate Select Committee on Regional and Remote Indigenous Communities, Second Report, 2009

for Aborigines. Church leaders feel that they can contribute a great deal to enhance Government engagement with communities.

Thank you for your interest in the issues confronting Indigenous Australians. I look forward to reading your report.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'GM', is enclosed in a light grey rectangular box.

Graeme Mundine
Executive Secretary

Attachments: NATSIEC Forum on the Intervention: Forum Statement