

JOINT STATEMENT

by the

Indigenous Peoples Organisations of Australia

attending the eighth session of the

Permanent Forum on Indigenous Issues

New York, 18 to 29 May 2009

28 May 2009

On 24 May 2009 the Minister for Indigenous Affairs announced the Australian Government is taking steps towards compulsory acquisition of the Alice Springs town camps 'to give children in the camps a better chance at a safe, healthy and happy life'. The Minister described the conditions in the camps as appalling, referring to acute overcrowding, sub-standard housing, alcohol abuse, despair, hopelessness and horrific crimes. The Minister announced intentions to implement a comprehensive plan to transform the town camps and provide intensive support services.

We the Indigenous Peoples Organisations of Australia attending the eighth session of the United Nations Permanent Forum on Indigenous Issues decide as follows:

We strongly oppose the proposal by the Government of Australia to compulsory acquire leases over Aboriginal and Torres Strait Islander lands or territories without their free, prior and informed consent.

We call upon the Government of Australia to comply with its international obligations to respect the rights of the Indigenous Peoples of Australia by ensuring that the representatives of the Aboriginal people in the region of Alice Springs are able to make an informed decision regarding the provision of adequate housing and services for their populations.

Specifically, we urge the Australian Government to re-open negotiations with Tangentyere Council, in concert with other relevant representative Aboriginal organizations, and facilitated by the Australian Human Rights Commission, with a view to concluding as soon as possible an agreement for urgent funding for suitable housing to meet the needs of the Aboriginal people of the region.

We ask the Australian Government to withdraw their decision to compulsory acquire the lands held by the Tangentyere Council.

In regards to the international obligations of the Australian Government we note the following paragraphs regarding the rights of Indigenous Peoples and relevant recommendations by the human rights mechanisms of the United Nations and international human rights treaty bodies.

The Declaration on the Rights of Indigenous Peoples was adopted two years ago by an overwhelming vote of the UN General Assembly. Australia was one of only four governments to vote against the adoption of this universal Declaration but on 3 April 2009 the Government announced its support for the Declaration.

‘Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.’

(Article 23, UN Declaration on the Rights of Indigenous Peoples)

In May 2007, following a visit to Australia during 31 July to 15 August 2006, the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, recommended to the United Nations in Paras 98 and 135 of his report that Aboriginal people should be given control to the greatest extent possible of our affairs and expressed his particular concern that removal of Aboriginal people as decision makers over the use and access of the land in the Northern Territory would undermine the right of self-determination. He advised that such action ‘may call into question Australia’s obligations under the International Covenant on Economic, Social and Cultural Rights, including its provisions on self-determination’.

‘Australian governments must urgently address the humanitarian tragedy of the lack of housing and basic services for the indigenous peoples of Australia, living on indigenous lands and elsewhere. To this end, the Special Rapporteur encourages relevant government staff to visit and reside in indigenous communities, including town camps, and rural and remote communities, in order to better comprehend the reality and the challenges faced by the populations and communities in these locations.’

(Para 133, Report on Mission to Australia, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, UN Document A/HRC/4/18/Add.2, 11 May 2007)

On 13 March 2009, the Committee on the Elimination of Racial Discrimination (CERD) wrote to the Australian Government expressing its concern that the Racial Discrimination Act was suspended in the Northern Territory and calling for a report to the Committee by 31 July 2009 on the progress made in redesigning its (the Government's) approach in the Northern Territory in consultation with the Aboriginal communities.

'... In order to continue a constructive dialogue with your Government, the Committee requests the State party to submit further details and information on the following issues no later than 31 July 2009 progress on the drafting of the redesigned measures, in direct consultation with the communities and individuals affected by the NTER, bearing in mind their proposed introduction to the Parliament in September 2009 [and] progress on the lifting of the suspension of the Racial Discrimination Act. The Committee welcomes the government's commitment to building a new relationship with Indigenous Australians based on mutual respect, mutual resolve and responsibility.'

On 2 April 2009, the Committee on Human Rights released its findings on Australia's obligations under the International Covenant on Civil and Political Rights.

The Committee expressed its concern with the Northern Territory Emergency Response measures and particular concern about the negative impact of the measures on the enjoyment of the rights of indigenous peoples and at the fact that they suspend the operation of the Racial Discrimination Act 1975 and were adopted without adequate consultation with the indigenous peoples.

'The State party should increase its efforts for an effective consultation with indigenous peoples in decision-making in all areas having an impact on their rights ... The State party should redesign NTER measures in direct consultation with the indigenous peoples concerned, in order to ensure that they are consistent with the Racial Discrimination Act 1995 and the Covenant.'

(Concluding observations on Australia, Human Rights Committee, UN Document CCPR/C/AUS/CO/5, 2 April 2009)

On 22 May 2009, the Committee on Economic, Social and Cultural Rights, in examining Australia's periodic report under the International Covenant on Economic, Social and Cultural Rights, expressed its concern that some of the Northern Territory Intervention measures are inconsistent with the Covenant rights, in particular with the principle of non-discrimination, and have a negative impact on the realisation of the rights of indigenous peoples and noted 'with regret' that measures were adopted without sufficient and adequate consultation with the indigenous peoples concerned

'The Committee recommends that the State party take effective measures, in line with the Committee's general comment No.4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant), to address homelessness in its territory. The State party should implement the recommendations of the Special Rapporteur on the Right to Adequate Housing contained in the report of his mission to Australia... The Committee calls on the State party to take immediate steps to improve the health situation of indigenous people, in particular women and children, including by implementing a human rights framework that ensures access to the social determinants of health such as housing, safe drinking water, electricity and effective sanitation systems.'

(Concluding observations on Australia, Committee on Economic, Social and Cultural Rights, UN Document E/C.12/AUS/CO/4, 22 May 2009)

We also appreciate that the Australian Government has presented to this session of the Permanent Forum on Indigenous Issues a joint statement with our delegations expressing a desire that Australia meet its human rights obligations, and we recognise that a critical factor in achieving this goal is the degree to which Aboriginal and Torres Strait Islander peoples can set the agenda, and affect policy and service delivery.

Our delegations are encouraged by the Australian Government's decision to support the UN Declaration on the Rights of Indigenous Peoples.

Therefore, in conclusion to this statement, we support the view that the Government of Australia should establish and implement in conjunction with the Aboriginal and Torres Strait Islander peoples a fair, independent, impartial, open and transparent process to adjudicate the rights of the Aboriginal people in relation to our lands. This provision is stipulated in Article 27 of the Declaration on the Rights of Indigenous Peoples.

We strongly recommend that the Australian Government provide, as a matter of priority and urgency, extensive human rights training on how human rights apply to Aboriginal and Torres Strait Islander peoples in the areas of non-discrimination and civil, political, economic, social

and cultural rights. The training should target all sectors of society, but particularly it should target State officials having a direct role in engagement of the Aboriginal and Torres Strait Islander peoples and the judiciary.