

United Nations Expert Mechanism on the Rights of Indigenous People  
Third Session  
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**Agenda Item 4:** Report on the compliance with the UN Declaration on the Rights of Indigenous Peoples of the Northern Territory Intervention.

**Intervention from:** North Coast Regional Aboriginal Land Council

**Delivered by:** Patricia Laurie, Councillor for the North Coast Region Aboriginal Land Council

Mister Chair,

I would like to congratulate you on your appointment as Chairperson of the Expert Mechanism on the Rights of Indigenous People.

In June 2007 the Northern Territory Government released a report arising from an inquiry into the protection of children from sexual abuse in Aboriginal communities in the Northern Territory.

Six days later, the then Australian Government announced a "national emergency intervention," into Aboriginal communities in the Northern Territory.

It followed this announcement, some weeks later with legislation which was supported by its major opposition, the Australian Labor Party, which has since assumed power.

The incoming Labor Government has maintained the sweeping powers inherent in the intervention.

The Northern Territory intervention was, and continues to be, the most contested and contestable policy response in Indigenous Affairs in Australia in recent memory.

All governments – past and present, State, Territory and Commonwealth – have formed the view supported by "some" Aboriginal people to reduce Indigenous people to the status of beggars in our own land as a prerequisite for receiving assistance, and in most cases forced to receive assistance under terms we did not want or agree with.

But our government, our media and some of our own people would have us think so.

I prefer to see Australians in the main as misinformed as living in a climate of fear and misinformation, constructed by government, to blame these who have less than themselves for their problems, whilst allowing the big end of town to continue the rape and pillaging of our country.

It is an abomination and will be an enduring stain on the history of the relationship between the Australia State and the Indigenous peoples of Australia, which, will require a future Prime Minister to

issue another statement apologising for this latest example of political bastardry. Social re-engineering is now an explicit policy tool of the Australian Government.

A major point on the Intervention which we are able to promote and support, is that if there are Indigenous or Non Indigenous people who are doing the wrong thing, harming others or mismanaging, then they must be dealt with swiftly and decisively, this is a position we must all support.

The Australian Government has, and is actively characterising people who dare to speak out about the Northern Territory Intervention as part of the problem, as people who don't care about women and children. The Australian Government continues its active engagement in degrading, vilifying and humiliating those who have a differing view and attacking them for their comments, for exercising their voice. It is becoming all too common in Australia, that there is an active strategic campaign to silence dissent by any means. This growing level of intimidation is a present and growing concern.

The intervention is a lazy and immature response by government developed by zealots who put their own and their political interests first and relegated Indigenous people to being political commodity, to be played with and used for cheap and political ends.

If Government's continue to ignore our voices and our rights, we will keep taking our fight to the international arena and call the Australian Government(s) to account here.

The United Nations is the only place our voice is heard. The rest of the world knows what is happening and has expressed the position that it is appalled by it. It has called on Australia to stop and fix it, but still our politicians are turning a deaf ear to the calls for commonsense, for justice and for humanity to prevail.

The Intervention raises serious concerns with a number of Australia's international legal obligations with respect to the human rights of Indigenous people and, in particular, the principles and standards enshrined in the UN Declaration on the Rights of Indigenous Peoples.

The need for Australia to take urgent action to ensure the Northern Territory Intervention complies with its international human rights obligations and the UN Declaration on the Rights of Indigenous Peoples has been highlighted in the past twelve months by a number of highly respected, independent international human rights bodies and experts.

These have included:

- The Committee on the Elimination of Racial Discrimination.
- The UN Human Rights Committee.
- The UN Committee on Economic, Social and Cultural Rights
- The Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous Peoples in his recent country visit to Australia.

All have expressed the need for Australia to ensure that affected Aboriginal communities are directly consulted with and that the Racial Discrimination Act, which has been suspended since the onset of the intervention, be immediately reinstated.

We share the serious concerns which have been raised, and continue to be raised, about the pervasive effects of the Intervention on affected Aboriginal communities and their traditional culture, identity and way of life.

The policies underpinning the Intervention are paternalistic.

They are particularly so when set against the principles, standards and goals of self determination enshrined in the UN Declaration.

The lack of consultation and the prescriptive nature of the legislation has disempowered Aboriginal people and their communities, and a testament to the Australian Government abject refusal to give practical effect to the principle of free, prior and informed consent.

As the Special Rapporteur, Professor Anaya, has observed, without the buy-in of Indigenous peoples at the earliest stages of the development of government initiatives, their effectiveness is often doomed to fail.

The Australian Government has acknowledged the initial failure to consult with affected communities but it continues to ignore the reasoned voices of dissent against the prescriptive nature of the Intervention.

This is compounded by any clear evidence, to date, on the necessity for the measures or their effectiveness.

The Government recently conducted a review of the measures which involved consultation with affected communities from June to August, 2009

It claimed those consultations were conducted in a "spirit of genuine consultation and engagement with Indigenous people."

However, serious questions have since been raised about significant procedural and substantive failures in the consultation process and its lack of independence from government.

An independent review of the consultations identified serious flaws in the process.

These included insufficient time to adequately explain the measures, a lack of interpreters, and a failure to report the level of anger and frustration expressed at meetings on the blanket nature of measures, particularly the compulsory quarantining of welfare benefits.

Compulsory income management has proven to be one the most contentious and problematic features of the Intervention measures.

The Board charged with reviewing the first 12 months of the Intervention found that the blanket imposition of compulsory income management has "resulted in widespread disillusionment, resentment and anger in a significant segment of the Indigenous community."

It reported that support was expressed for a voluntary income management scheme.

It recommended the compulsory scheme cease and that it be replaced with a voluntary system.

However this recommendation has never been acted upon.

In fact it was never raised as an option during the community consultations.

The Discussion Paper released by the Australian Government to inform the consultations, "Future Directions for the Northern Territory Emergency Response", only put forward two options as a "starting point," for discussion.

Option one was to allow for individual exemptions from income management.

The second was for no change.

Option one has now progressed to legislation, but this approach still provides for a blanket application of income management for those peoples residing in prescribed areas and then providing for those who do not want to be subject to this regime to apply for exemption, in effect we have reversed the presumption of innocence the underpinning principle our legal system, all persons in prescribed areas are deemed guilty and shall have their income managed but may make application for a ruling of innocence to be granted an exemption from the income management regime.

The purpose of consultations with Aboriginal communities must be to ensure their participation in the development of laws and policies that directly affect them.

They should be conducted with a view to obtaining their free, prior and informed consent.

This has not been the case with the Northern Territory Intervention.

The compulsory and punitive nature of income management together with the Government control over traditional lands and Government control over Aboriginal community councils and organisations under the Intervention run counter to the right of self determination and the principles and standards contained in the UN Declaration.

We has set out its detailed concerns in relation to the Northern Territory Intervention in a 20 page document for this Forum.

I commend the document to you.

Mister Chairman, it is recommended that:

- The Australian Government ensure the compatibility of all government policies and practices with the human rights standards contained in the UN Declaration on the Rights of Indigenous Peoples' to effectively put its publicly expressed endorsement for the Declaration into meaningful action.
- The Australian Government immediately reinstate the Racial Discrimination Act, in order to comply with the UN Declaration in relation to the Northern Territory Intervention, (The legislation currently before the Parliament of Australia does not, I repeat does not restore the Racial Discrimination Act).
- The Australian Government revisit the compulsory and punitive aspects of the Intervention measures with a view to implementing a fresh and meaningful review which seeks to rebuild the local Indigenous decision making and empowerment and Indigenous capacity for self governance which have been lost since the Intervention was first imposed on affected communities.